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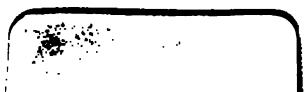
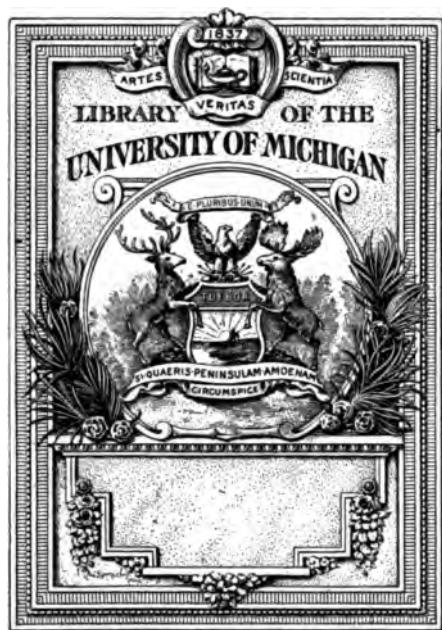
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RERUM BRITANNICARUM MEDII ÆVI
SCRIPTORES.

OR

CHRONICLES AND MEMORIALS OF GREAT BRITAIN
AND IRELAND

DURING

THE MIDDLE AGES.

31-19 (= Edw. 20)
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THE CHRONICLES AND MEMORIALS
OF
GREAT BRITAIN AND IRELAND
DURING THE MIDDLE AGES.

PUBLISHED BY THE AUTHORITY OF HER MAJESTY'S TREASURY, UNDER
THE DIRECTION OF THE MASTER OF THE ROLLS.

ON the 26th of January 1857, the Master of the Rolls submitted to the Treasury a proposal for the publication of materials for the History of this Country from the Invasion of the Romans to the reign of Henry VIII.

The Master of the Rolls suggested that these materials should be selected for publication under competent editors without reference to periodical or chronological arrangement, without mutilation or abridgment, preference being given, in the first instance, to such materials as were most scarce and valuable.

He proposed that each chronicle or historical document to be edited should be treated in the same way as if the editor were engaged on an *Editio Princeps*; and for this purpose the most correct text should be formed from an accurate collation of the best MSS.

To render the work more generally useful, the Master of the Rolls suggested that the editor should give an account of the MSS. employed by him, of their age and their peculiarities; that he should add to the work a brief account of the life and times of the author, and any remarks necessary to explain the chronology; but no other note or comment was to be allowed, except what might be necessary to establish the correctness of the text.

The works to be published in octavo, separately, as they were finished ; the whole responsibility of the task resting upon the editors, who were to be chosen by the Master of the Rolls with the sanction of the Treasury.

The Lords of Her Majesty's Treasury, after a careful consideration of the subject, expressed their opinion in a Treasury Minute, dated February 9, 1857, that the plan recommended by the Master of the Rolls " was well calculated for the accomplishment of this important national object, in an effectual and satisfactory manner, within a reasonable time, and provided proper attention be paid to economy, in making the detailed arrangements, without unnecessary expense."

They expressed their approbation of the proposal that each Chronicle and historical document should be edited in such a manner as to represent with all possible correctness the text of each writer, derived from a collation of the best MSS., and that no notes should be added, except such as were illustrative of the various readings. They suggested, however, that the preface to each work should contain, in addition to the particulars proposed by the Master of the Rolls, a biographical account of the author, so far as authentic materials existed for that purpose, and an estimate of his historical credibility and value.

Rolls House,
December 1857.

Pear Books

OF THE REIGN OF

KING EDWARD THE THIRD.

YEAR XX. (FIRST PART.)

Pear Books
OF THE REIGN OF
KING EDWARD THE THIRD.

YEAR XX. (FIRST PART.)

EDITED AND TRANSLATED

BY

L U K E O W E N P I K E .

OF BRASENOSE COLLEGE, OXFORD, M.A., AND OF LINCOLN'S INN, BARRISTER-AT-LAW;
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INTRODUCTION.

INTRODUCTION.

THE reports in the present volume have never before been published. It may be hoped that it will appear from them, as Coke remarked, "how necessary it is to read records and pleas reported or recorded, though they were never printed. For those and the like records are *veritatis et retustatis restigia.*"¹ They are full of information of the most varied character, and the matters which occur in them might be made the subjects of almost innumerable dissertations. The book will, however, be quite sufficiently bulky without the addition of any very lengthy introduction, and the Editor's remarks have, therefore, been restricted to comments on a few cases.

The volume contains the whole of the reports of Hilary and Easter Terms and about half of the reports of Trinity Term of the year 20 Edward III. A considerable difficulty has arisen in dividing the material which has been found into volumes of a convenient size. The reports of Michaelmas Term of this year extend, in one of the MSS., over a much greater space than those of any Terms which have hitherto been printed in the series. By placing the first half of Trinity Term here, however, and the second half with Michaelmas Term, I hope to effect the best arrangement which is possible, and so to complete the year, and fill up the gap existing in the old printed editions, in one more volume.

¹ Co. Litt., 298 b.

The Glossary to succeed forward so far) to produce the Glossary which was included in the original instructions relating to the publication of the second Year Books. I have on many occasions mentioned the progress which was being made with it, and it has constituted a part of my work from the very first day when I took up the editorship more than a quarter of a century ago.

Practically no previous glossary or dictionary of the French language spoken in England down to the year 1362. Though French must have been commonly spoken in England by the higher classes from a time not very long after the Norman Conquest until the middle of the reign of Edward III., there is practically no comprehensive dictionary or glossary of the language as used in this country. There is a curious "Dictionary of the Norman or Old French Language collected from such Acts of Parliament, . . . Law Books, &c., as relate to this nation," by Robert Kelham. It gives no indication of the different parts of speech. It appears to have been compiled on no definite system, and printed without any correction of the manuscript as first written, or of proofs for the press. It was published in 1779. M. Moisy's more recent *Glossaire comparatif anglo-normand* does not include Year Books, or Statutes, or Parliament Rolls among its sources.

There are glossaries to the texts of various works, too numerous to mention here, but each extending to the one particular text, and no further. The late Professor Maitland, whose premature death is a deplorable loss to all students of legal history, began "an examination of the Year Book verb . . . , and "spent some weeks in the collection of forms that "are written at full length."¹ The words thus collected extend over five pages and a half. They were, of course, only intended to serve as specimens. In some cases the infinitive is given without the other moods; in other cases there are various moods,

¹ *Year Books of Edw. II. (Selden Society).* Vol. I., Introd., p. liii.

tenses, and persons without the infinitive. It was not a glossary which was being attempted, but an illustration of some inconsistencies in conjugating and spelling, to be followed by some examples of the sequence of tenses.

There are many dissertations (English, French and German) on the character of the French language spoken in England. They usually indicate peculiarities which are supposed to distinguish it from the language spoken or written on the Continent. They agree, for the most part, in representing it as of an inferior quality. They commonly, however, relate to some special work, and their argument is from the particular to the general. To the French language spoken in England in its entirety, to its vocabulary and grammar as a whole, there is practically no guide.

There are dictionaries and glossaries, as well as grammars, of the Romance languages.¹ There are also glossaries limited to the *Langue d'oïl*,² which, being more specialised, throw more light upon the various dialects of French spoken north of a certain boundary. None of them will, however, be found to suffice for the interpretation of the Year Books and other French writings of English origin.

More closely associated with our subject are, perhaps, some comprehensive dictionaries of old French, which include occasional references to French works written in England. Among these may be mentioned the *Dictionnaire historique de l'ancien langage françois* (in ten volumes) of La Curne de Sainte-Palaye.

¹ Specially worthy of mention among these are the works of Raynouard (who discovered the laws of the old French declension), and Diez. A fifth edition of Diez's *Etymologisches Wörterbuch der romanischen Sprachen* was published in 1887, with an Appendix, or *Anhang*, by August Scheler. There was also an Index to this edition, by Johann

Urban Jarnik, published in 1889.

² Among these may be mentioned the *Glossaire étymologique* which forms the third volume of Burguy's *Grammaire de la langue d'oïl*. 1853-1856. It is restricted to French dialects of the twelfth and thirteenth centuries. There is also a *Glossaire de la langue d'oïl* by Dr. A. Bos, published in 1891.

author died in the year 1781, and the work is consequently not illumined with any modern scholarship. It remained long in manuscript, and was not published in its entirety until the year 1882.¹

Godefroy's dictionary: it does not cover the ground of the proposed glossary.

The most recent dictionary of the kind is the *Dictionnaire de l'ancienne langue française* by Frédéric Godefroy, of which the first volume appeared in 1880 and the tenth (the last) in 1902. It has a considerable number of references to French works written in England, including even some of the earlier volumes of Year Books of the reign of Edward I. published in the Rolls series. It also shows an acquaintance with some of our earlier statutes written in French, but not with the edition of the *Statutes of the Realm* published by the Record Commission. Naturally, perhaps, it is not always strictly correct when dealing with the technical terms used in England, as when it converts an array of jurors (*Arraie*) into a judicial decision. It contains, moreover, at once too much and too little for the student of English law and history. Etymology is excluded from it, but it embraces all the French dialects, and the period from the ninth century to the fifteenth. Its vocabulary is, perhaps, all that is needed for the French which was spoken before and shortly after the Conquest. It does not, however, include sufficient details of the speech actually used in England in later years,

Illustrations.

Suppose, for instance, that anyone wishing to study his author at first hand, in the original language, met with the word *conisast*. He would look for it in vain in any of the works mentioned above. In the glossary now in course of preparation

¹ It is a work of great erudition, but the value which it possessed when it was written diminished, of course, with the advance of knowledge. See the *compte rendu* of it by M. Paul Meyer in *Romania*,

Vol. IV., p. 278; M. Léopold Favre's reply entitled "Le Glossaire de La Curse de Sainte Palaye et M. Paul Meyer"; and M. Paul Meyer' final remarks in *Romania*, Vol. IV. p. 492.

he would find it with a reference to the infinitive *Conustre*. Under *Conustre* the various meanings of the verb are stated, together with the various forms of the moods, tenses, and persons, and the word *conisast* among them. There are many instances in which a word may belong to more verbs than one. *Veie*, for example, may be the third person singular of the present subjunctive of *Veer*, *Veier*, &c., (to see); it may also be the past participle of *Veier*, *Vier*, &c. (to deny or forbid). In each case a reference will be given to the infinitive of both verbs. Laxity of spelling in the manuscripts is a cause of innumerable pitfalls, and one of the objects of the glossary will be to save the student from some, at any rate, of the risks of falling into them. Some further remarks on the principles on which it is being constructed will be found in the Introduction to a previous volume.¹ There is reason to believe that it will not exceed a moderate compass.

The manuscripts which have been used to establish the text of the present volume are the Lincoln's Inn MS., the Harleian MS. No. 741 in the British Museum, and the MS. in the University Library at Cambridge numbered Hh. 2, 8, all of which have been described in the Introductions to previous volumes. With them has been collated a transcript which there is reason to believe was made by or for the late Mr. A. J. Horwood from a MS. formerly belonging to the late Sir Charles Isham, on which he reported to the Historical Manuscripts Commission.²

Sir Charles Isham's MS. is described in the Preface to the volume of Year Books containing reports of cases from Hilary Term 11 Edward III. to Trinity Term 12 Edward III.³ It was seen by me in the

¹ Y.B., Easter and Trinity, 18 | *Manuscripts Commission, Appendix,*
Edw. III., Introd., pp. lxxxix-xc. | p. 252.

² *Third Report of the Historical* | ³ pp. xiii-xv.

Public Record Office before that volume was published in the year 1883, but what has since become of it I have tried in vain to discover. I am informed by the Secretary that it remained in the Record Office until the 27th of September, 1887, when it was delivered to Sir Charles Isham's agent. It is, however, no longer in the library at Lampert, and Sir Vere Isham tells me that many of the most valuable documents were sold by Sir Charles. I have enquired in various directions but have been unable to trace the MS. further.

The transcript which I have mentioned could not have been made from the Lincoln's Inn MS., the Harleian, or the Cambridge MS. of the reports of the year 20 Edward III., as it differs from all of them. It must therefore have been made either from the Isham MS. or from some other MS. of which nothing is known. It has been of some service, though the original cannot have been quite the best of the MSS. I have referred to it as "I."

The reports of Hilary Term are in the same form in all the MSS. in which they occur. They are evidently all from a common source, and present only the usual variations of reading or clerical errors and omissions. From Easter Term, however, to the end of the year there are two sets of reports, one of which is found in the Lincoln's Inn and Cambridge MSS., the other in the Harleian MS. and in that which I have called the Isham transcript. In many instances there are thus two independent reports of the same case; in some instances there are cases in one pair of manuscripts which are not found in the other pair.

The cor-
responding
records
compared
with the
reports.

The reports found in the manuscripts have, as usual, been compared with the corresponding records. The system on which the comparison has been made, the manner in which the records have been used when found, and the difficulties attending the search have been explained in the volume of Year

Books (Rolls edition) containing the reports of Easter and Trinity Terms 18 Edward III.¹

As in all previous volumes edited by me, every case which occurs in Fitzherbert's *Abridgment* has been traced and noted. The printed *Liber Assisarum Abridgment* has also been carefully searched, but does not appear to contain any of the cases which are in the present volume.

Reports of cases in the Exchequer of Pleas are of somewhat rare occurrence in the Year Books. There are, however, two in the present volume. In the first² it appears that one Barton was a prisoner in the Fleet prison, as the King's debtor for the balance of his account touching wools bought of the King. The wools were part of a certain number of sacks granted to the King in the fifteenth year of his reign. In respect of a hundred and six sacks, three quarters, five stones, and ten pounds and a half of the wools with which he was charged he appeared in the Exchequer, in the custody of the Warden of the Fleet, and gave the Court to understand that one "Guillelmus Pouche" or "Ponche," who was a prisoner in the Tower of London, owed him £241 18s. This "Guillelmus" is mentioned elsewhere in the records, and seems to have been an Italian merchant. "Guillelmus" is probably the form in which English scribes presented in Latin the Italian Guglielmo. An Englishman named William would have appeared as "Willelmus." "Pouche" or "Ponche" can hardly be the original Italian form. "Pucei" and "Ponci" are well-known Italian names, and one or other of them may have been written phonetically. Be that as it may, the name in the record looks more like Pouche than

¹ Introd., pp. xviii-xxxiv.

| ² Hilary Term, No. 4, pp. 16-21.

anything else, and, after the above words of caution, he may, perhaps, for want of certainty, be called by it.

Barton prayed that Pouche might appear and answer to the King in respect of the £241 13s., in part payment of his own debt, *juxta prerogativam Regis in hac parte*. A precept thereupon issued to the Constable of the Tower to cause Pouche to come and answer to the King in respect of that amount.

Pouche accordingly appeared in custody of the Lieutenant of the Constable of the Tower. Barton then said that he had bought of the King the one hundred and six sacks, &c., of wool for a certain sum of money, and the wools had been delivered to him by virtue of the King's writ under the great seal, in accordance with the form of the covenants agreed between him and the King, and that he was charged to the King for the same wools, as appeared in the remembrances of the Exchequer. Afterwards, the same wools were assigned to Queen Philippa, the King's Consort, in accordance with certain terms agreed between Barton and Pouche, who was the Queen's attorney for that purpose. The agreement was that Barton should have the wools by grant from the Queen, in virtue of the assignment made to her, for £641 13s. Of this sum Pouche received £241 13s. at certain stated times and places. Barton therefore prayed that, as he was still charged to the King with the entirety of the said wools, Pouche might answer to the King for the £241 13s. received by him, in part payment of Barton's debt. That Pouche owed that amount, for the cause aforesaid, he was ready to verify in any way the Court might direct.

Wager of law proffered as to the facts, but not allowed. Pouche thereupon proffered the wager of law that he did not owe the £241 13s., or any part of it, by reason of the said contract relating to the wools.

Barton, on behalf of the King and himself, counter-pleaded the wager of law. He said that he had tendered an averment, on behalf of the King and of himself, to the effect that Pouche had received the money in the manner alleged, that the contract and receipt lay within the cognisance of the country, and could be verified by the country, that Pouche alleged nothing on his own behalf, but only proffered the wager of law that he did not owe the money, and that this issue of a plea affecting the King ought not in this case to be admitted in this Court against the King. Barton therefore prayed judgment.

Pouche replied that Barton had not produced any specialty to show the contract and the payment of the money, that Pouche had himself proffered the wager of law that he did not owe the money by reason of the said contract, and that this issue was admissible according to the common law in such a case, because the King could not have an action independently of Barton. He therefore prayed judgment. Barton joined issue on the point of law; and the Court adjourned to consider its decision.

The wager of law was held to be inadmissible. Subsequent ten-
der of averment to the country as to the same facts not allowed.
On the re-appearance of the parties in Court, Pouche, according to the report, tendered an averment to the country that he did not owe anything to the defendant. This, however, could not be admitted after the proffer of the wager of law.

According to the record judgment was given that the King should recover against Pouche the £241 18s. in part payment of Barton's debt, and that Pouche, who had been removed from the Tower to the Fleet prison by the King's command, should remain there until he had made satisfaction.

The case illustrates both the Exchequer practice, and the doctrine which prevailed with regard to the

wager of law. In an action of Debt brought in the Common Bench simply by one subject against another the wager of law would certainly have been allowed in the absence of any specialty, and where there was nothing in support of the claim but the plaintiff's word. This was, no doubt, the reason for the hesitation of the Barons of the Exchequer, and for their adjournment to consider the point. The dispute was, however, not merely one between party and party, but one in which the King might be a loser, if the wager of law should be successful, and the King's debtor failed to have allowance of that which he alleged to be owing to him. Therefore judgment was given in favour of the King's debtor with regard to the proffered wager of law, and this had the effect of final judgment against the person who owed him money. It seems, however, that if the latter had at once put himself upon the country instead of tendering the wager of law, the issue would have been tried by a jury.

*Privilege
of the Ex-
chequer.*

The second case in the Exchequer of Pleas¹ is one relating to the privilege of the Exchequer. It was claimed by the Barons of the Exchequer that, according to the “*leges speciales, consuetudines, et statuta Scaccarii*” beginning in the time of William the Conqueror, the officers of the Exchequer had been accustomed to plead and be impleaded therein, without question, in respect of all torts and trespasses with which they were concerned as plaintiffs or defendants.² These *statuta* are not to be confounded with *Les Estatuz del Eschekere* assigned to the 51st year of the reign of Henry III. in Ruffhead's edition of the Statutes, and described as *temporis incerti* in the Statutes of the Realm, but were alleged

¹ Easter Term, No. 24, p. 202.

² L.T.R. Remembrance Roll, | corresponding entry on the K.R. Remembrance Roll, and printed Communita, Hil., 11 Edw. III., Y.B., Easter-Trin., 14 Edw. III., Adhuc recorda, collated with the Introd., pp. xxiv-xxv.

regulations established in the Exchequer for the Exchequer. They were, without doubt, recognised in the time of Edward III., but they could hardly have existed in the time of the Conqueror, as the Exchequer was not known by that name before the reign of Henry I.

In the case now under consideration an A Baron's action of Trespass was brought by one who is described in the report as "*un radlet dun des Barons,*" and in the record as "*vallettus Alani de Esshe, Baronis hujus Scaccarii,*" against the Abbot of Glastonbury and another. A *ralet*, *radlet*, or *vallettus* appears to have been, at this time, a young unmarried man who was in rank below a knight, but how much below is not certain. The usual translation is "yeoman," but the word "yeoman" itself is used in more senses than one. The *ralet*, *vallettus*, or *radlet* appears to have had at one time nearly or quite the same meaning as *damoiseau*, a young gentleman, just as *damoiselle* is a young lady. A *vallettus* might be the King's ward.¹

Exception was taken to the writ on the ground that there were no pledges (or sureties) to prosecute, but this was over-ruled because it was the custom of the Court that no pledges to prosecute should be found for the Barons or their servants. But, said Counsel for the defendants, the writ supposes the plaintiff to be the "vadlet" of one of the Barons; and he might be the Baron's "vadlet," and not his servant; "and you ought not to hold plea "in this Court, unless he is a servant of the Baron's "household, and, inasmuch as the writ does not "make him the Baron's servant, judgment." Then Counsel for the plaintiff said:—"We suppose that "he is the Baron's 'vadlet,' which will be understood to be the Baron's servant, unless the reverse "is pleaded; and inasmuch as you do not deny it, "and allege nothing else in fact which would disprove "our action, judgment."

¹ Bract. 116, b.

The "rad-
let" one
of the
"hommes"
Baron, and
privileged.
The Court then caused to be read the "statute" relating to the privilege. It purported that King Henry III. had granted to the Barons that trespasses committed against them and "their men" should be determined in the Exchequer before them. The defendants were therefore put to answer over, and pleaded the general issue, "Not Guilty."

Thus the maintenance of the privilege did not depend upon the question whether the plaintiff was the Baron's servant or not, but upon the question whether he was the plaintiff's man or not. This was a very different thing, for everyone who did homage to his superior lord for his lands described himself as that lord's man, and there was no knight in the realm who was not the King's man, or immediately the man of the lord of whom he held.

The
Bishop of
Norwich
and the
Abbot of
Bury St.
Edmund's.

One of the cases¹ relates to a chronic dispute between the Bishop of Norwich and the Abbot of Bury St. Edmund's, and shows, at the same time, how the Church attempted to evade the authority of the King's Court. The Abbot had long claimed to be exempt from the rule of the Bishop by reason of certain early charters, and of a *decretum* in the Court of William the Conqueror. The reason assigned for the exemption was that the body of St. Edmund, the glorious King and Martyr, lay buried in the Abbey.²

Contempt: In Easter Term, 1346, a writ of Contempt was excommunicated by the King and one Richard Freiselle. It was alleged that messenger a writ of Prohibition, as well as another writ, had been entrusted to Freiselle for delivery to the Bishop

by the
Bishop's
Commis-
saries.

Easter, No. 27 (pp. 214-232).

| ² *Placita coram Rege*, Mich., 19
| Edw. III., B° 114.

or his commissary, that he did deliver them, by the King's command, to the Bishop, and that the commissaries for that reason excommunicated him. By these writs the Bishop was forbidden to do or attempt anything to the prejudice of the franchises or privileges granted by the King or his ancestors to the monastery (and accepted and confirmed by Popes), or in prejudice of the King and his crown, and if anything of the kind had been done, the Bishop was to annul and revoke it.

The defence of the commissaries was that Freiselle had been excommunicated, and was therefore not in a condition to be answered, and the Bishop's letters patent were produced to the effect that Freiselle was under sentence of greater excommunication. On behalf of the King it was naturally contended that this excommunication of Freiselle was the very contempt for which the action was brought. The Court held that this must be understood to be the fact, unless it was definitely pleaded that the excommunication was in relation to some other matter.

There were then produced, on behalf of the commissaries, letters patent of the Archbishop of Canterbury purporting that he had found among the acts of the Court of Arches that Richard Freiselle was under sentence of greater excommunication on account of his manifest contumacies, and the manifold offences committed by him. Again it was contended on behalf of the King that the excommunication must be understood to be that in respect of which the action was taken, as there was no other special cause mentioned by the Archbishop. The Court again held that this must be so, and put the commissaries to answer.

The Church, however, was not yet at the end of Judgment its resources. It was pleaded on behalf of the ^{against} _{the Com-} commissaries that the Court of Common Pleas had missaries. no jurisdiction with regard to the cause of excommunication, which could be tried only in an ecclesiastical court, and not in a lay court. On

behalf of the King it was urged that the writ was sued by reason of the excommunication pronounced against Freiselle, and that the action could not, according to the law of the land, be prosecuted anywhere but in the King's Court. The commissioners were then asked by the Court whether they had anything else to say, and they answered that they could say nothing more than they had already said. Judgment was therefore given that the commissioners should be taken, and that Freiselle should recover his damages against them.

Stay of execution followed by writ to proceed.

It was, however, one thing to have judgment and quite another thing to have execution, where the Church was concerned. On the following 20th of May the King's writ close was directed to the Justices of the Common Bench to stay execution until the next Michaelmas Term, so far as the *Capias* against the commissioners was concerned; and the assessment of Freiselle's damages was deferred until the same time. This was, however, followed by a writ to proceed, and Freiselle was allowed execution of the damages claimed in his declaration, which were no less than £1,000.

Writ of Error, followed by writ under the privy seal to hasten execution.

It was hardly to be expected that the Bishop and his commissioners would tamely submit to this. In Easter Term in the 21st year of the reign there was a writ of Error directing that the record and process were to be sent into the King's Bench, and they were sent accordingly. Then, however, a strange thing happened. After all the manœuvring and counter-manœuvring which had evidently been going on outside the courts, the commissioners, and the Bishop, and the Church were finally worsted. It appears on the plea roll of the Common Bench that "after this enrolment [as to sending the record and process into the King's Bench] had been made, the Lord the King sent to his Justices here [in the Common Bench] his letters under his privy seal in these words:—‘Edward, by the grace of God,

" King of England and of France, and Lord of
 " Ireland, to our well-beloved and trusty John de
 " Stonore and his fellows, Justices of our Common
 " Bench, greeting. Heretofore we commanded, and
 " again we command you that you cause to be fully
 " and quickly carried out the judgment given by you
 " in our Common Bench against William, Bishop of
 " Norwich, and his commissaries, on the prosecution
 " of our well-beloved and trusty Richard Freiselle, for
 " that he excommunicated the said Richard, in con-
 " tempt of us, because he delivered certain writs of
 " Prohibition under our seal to the said Bishop, and
 " that you make due execution thereof without delay,
 " according to the law and custom of our realm, with-
 " out having regard to the prayer, favour, or mainten-
 " ance of any person, and this omit not as you wish
 " to escape our indignation. Given under our privy
 " seal the sixteenth day of April. And I send these
 " to you that you may cause to be done in the matter
 " aforesaid that which of right ought to be done.' "

This case is an illustration of the struggle which was now going on between the King and the nation on the one hand, and the Pope and the Church on the other. Like the Statute of Provisors³ which followed a few years afterwards it was a victory for the King and the nation. As the counsel for the King is represented to have said in one of the reports :—" We understand that everyone, be he Bishop or anyone else, who is the King's liege, ought to be obedient to the King's command," and so, in the end, the Bishop had to be.

There is another church case¹ in which we find the Papal provisions, Pope in opposition both to the King and to an English Abbot. The King's presentee to a church, one Richard de Skarles, had been duly admitted and instituted by the Bishop of the diocese. A provision

¹ Trin., No. 16 'pp. 522-526).

² 25 Edw. III., St. 4 (*Statutes of the Realm*).

had, however, been made by the Court of Rome, in respect of the same church, to one Roger de Maners, who sued against Skarles in that Court. Skarles was thereupon cited to appear there to show cause why he had held the church, contrary to the provision. The Abbot of Ramsey, to whom the patronage of the church belonged, was also cited. The King sent a writ of Prohibition to Maners directing him not to intermeddle further in the matter. Maners disregarded the prohibition. A new citation came to Skarles. The Abbot also was again cited to appear at the Court of Rome to answer why he had acknowledged that the presentation on the particular voidance belonged to the King when (as was alleged on behalf of the Pope) it belonged to the Abbot, and had so nullified the papal provision. An Attachment on Prohibition was brought against Maners, who pleaded Not Guilty, and denied that the Prohibition had been delivered to him. A discussion then arose as to whether Maners could be allowed to be out on mainprise. After consideration he was let out until the time of trial, but the Court said that, if he in the meantime made any appeals or citations to Rome, the mainpernors would be held to ransom at the King's will, without being allowed to pay a fine as in respect of a common mainprise, and that, too, even though they brought in the defendant's body on the appointed day.

Effect of excommunication of a layman who had no support from the King.

In another case, in which no dignitary of the Church was concerned, and the struggle was between the Church and an ordinary layman, the result was very different. There it was shown that excommunication might prove a fatal weapon. Thus an action was brought by a layman against a parson and a chaplain for prosecuting in Court Christian a plea touching chattels which did not concern either matrimony or testament, and against the Judge of the Court for holding the plea contrary to the King's Prohibition. After lengthy proceedings, wager of law was joined on certain matters, and issue to

a jury on others. On the appearance of the parties on the day given the defendants alleged that the plaintiff had been excommunicated, and therefore ought not to be answered. The letters of the Bishop of Lincoln in witness of the fact were produced, and the case was put *sine die*.¹

The manner of joining the wager of battle on a Mode of writ of Right, and all the details preceding the actual joining the wager combat on a given day are found in Trinity Term.² It seems that after the champion on each side had of battle on a writ of Right. been brought into court he placed a penny in each finger of a glove or gauntlet, including the thumb. The gloves were thrown down and accepted by the Court. The defendant and the tenant had to find pledges that the battle would be carried out, and that neither of the champions would injure or molest the other either secretly or openly. The gloves were then returned to the champions—to each his own. The five pennies remained in each glove, and were to be afterwards offered in honour of the Saviour's five wounds, so that God might allow the victory to be given to the champion who had right on his side.³ Though all the preliminaries were completed in Trinity Term, the parties were not to appear again until the morrow of All Souls, or third of November. In the meantime the principals were to keep a strict watch over their respective champions. There appears to have been some slight difference in the arrangement of the details from time to time,⁴ but battle was the usual mode of trial on a writ of Right unless the parties put themselves on the Grand Assise.

¹ Easter Term, No. 40, pp. 300-306, and 307, note 2.

² Trin., No. 5 (pp. 482-486).

³ See Y.B., Mich., 30 Edw. III., fo. 20.

⁴ There is a reference towards the end of the report to proceedings in the Northamptonshire Eyre (3

Edward III.) in relation to the oath of the champions. Those proceedings are not reported in the printed Year Books, though they were in the missing Isham MS., and there are a few short notices of them in Fitzherbert's *Abridgment*.

Wager of
battle
where
a citizen
of London
sued an
Appeal of
Robbery.

A much more unusual case¹ occurred when a citizen of London sued an Appeal of Robbery and said that if the defendant would deny the robbery he was ready to deraign (or prove) it by his body, and the defendant thereupon waged battle. The appellor, however, finding himself taken at his word, appears to have come to the conclusion that the better part of valour is discretion. He took refuge in the franchise or privilege enjoyed by the citizens of London that battle should never be waged against any one of them in relation to a felony, wheresoever it might have been supposed to be committed. The appellee, however, demanded judgment in his favour on the ground that the appellor had tendered deraignment by his body, and the appellee had accepted it, and the appellor now declined that issue of the plea. It was argued by counsel that the tender of deraignment by the body was merely a formal expression, and that the party could afterwards say that he would not join the wager of battle because he was a citizen of London. The appellor, however, went out to imparl, and, having apparently recovered his courage outside the Court, joined the wager of battle when he came back.

Interven-
tion of the
citizens of
London to
preserve
their
franchise.

Then, it seems, the citizens of London as a body intervened, and urged that, although the plaintiff had put himself upon trial by battle, they did not understand that, as he was one of the citizens, the Court would admit him to do so to the prejudice of their franchise. The Court appears to have been in doubt as to what ought to be done. It took time to consider, but its decision is not stated.

¹ Easter, No. 4 (pp. 134-136).

We have a picture of a mediæval market-town and its privileges in the two reports and record of a case of Replevin.¹ The plaintiff was one William Mirresone, a burgess of the town of Preston, and he alleged that the defendants had, at a certain place called the "market-stead," in the town of Lancaster, taken two cloaks belonging to him. The defendants said that they had acted as burgesses and bailiffs of the town of Lancaster, that the plaintiff had come on a market-day (Saturday), which the Provost and Burgesses had by prescription, and exposed two bales of cloth for sale in the market-stead, that they had demanded the toll of a halfpenny for each bale, which the plaintiff refused to pay, and for that reason they took the cloaks. The plaintiff pleaded that on a *Quo Warranto* before Justices in Eyre, in the reign of Edward I., the bailiffs and community of the town of Lancaster had claimed certain franchises, including the market, as included in a charter from King John, who had granted them all the franchises which the burgesses of Northampton then had. The Justices had given judgment that as the franchises were not expressly granted by the charter, and no title of prescription could be affirmed, the franchises were to be seized into the King's hand. Therefore said the plaintiff the burgesses could not be admitted to say that they had the franchises by prescription, contrary to the tenour of the record. The replication was that the defendants had not now a day in Court to claim or try any franchises, and as the plaintiff had not denied that they had a market on Saturday, or that the taking had been for the cause alleged, they therefore prayed judgment and the return of the cloaks. The Court adjourned for consideration, but in the end gave judgment for the defendants almost in the terms of their replication.

¹ Easter, No. 62 (pp. 390 398)

Responsibility of Sheriff where an outlaw had been taken and rescued on his way to Court.

The unpleasant responsibility of Sheriffs is shown in a case in which an outlaw escaped.¹ In return to a writ of *Capias utlagatum* a Sheriff returned that he had taken the outlaw, and had sent him towards the Court by two of his officers. On the way, however, a rescue was effected, and the outlaw was taken from the Sheriff's officers by force. The unfortunate Sheriff was amerced because the Court held that it could not be understood that such a rescue could be effected in time of peace. The Sheriff was responsible for the body of the outlaw, and ought to have sent it to the Court in sufficient custody at his peril. It was added, for the comfort of the Sheriff, that he could have an action against the rescuers.

Duties of knights in relation to a person essoined de malo lecti.

The functions which had sometimes to be performed by knights were multifarious. If a party in an action cast an *esson de malo lecti*, that is to say, to the effect that he was confined to his bed by sickness and for that reason could not appear, the Court sent four knights to view the person. They had to report whether he was sick or not, and, if he was sick, to diagnose and state the nature of the malady. If he was found to be not sick, the *esson* was turned into a default, but, if he really was sick, he was allowed a year and a day from the day of the view by the knights before appearance in Court.²

Power of a Justice of *Nisi prius* to amend his record.

It appears in one case³ that the *Postea*, or verdict of a jury at *Nisi prius*, could be amended by the Justice before whom it was taken, after he had returned it into the Common Bench. It was, indeed, asserted by counsel that a Justice of *Nisi prius* could not amend his record in respect of matter which was of the substance of the verdict. But Willoughby, J., said:—"Certainly, if his return is

¹ Easter, No. 78 (p. 448).

² Easter, No. 42 (pp. 316-318).

³ Easter, No. 65 (pp. 402-404).

"not sufficiently full, he can amend it well enough, "and that we have often seen." Kelshulle, the Justice of *Nisi prius*, was accordingly permitted to make an addition to the verdict as originally returned.

The constitution of juries and assises, and the Mode of meaning of the common words *electi*, *triati*, *et jurati* are illustrated by a case in Trinity Term.¹ It was an Assise of Darrein Presentment. Three triers, presumably included in the original panel, were sworn, and another man was challenged. The three could not agree with regard to the man who was challenged, two of them being of one opinion, and the third of the contrary opinion. The Justices would not accept the opinion of the majority of two who were in agreement, but caused two other men who had been challenged, one by the plaintiff and the other by the defendant, to be triers together with the first three. The whole five were then charged with regard to the man first mentioned as having been challenged. Three of them were of one opinion, and the other two of the contrary opinion. Again the Justices declined to accept the opinion of the majority, and the whole five were required to remain in one room, without food or drink, until they agreed. On the next day they came to an agreement, and rejected the man who had first been challenged, as well as all the others who were included in the panel. Then, it seems, the original three triers tried the challenges of the two who had been joined with them to try the challenge of the first. The three thereupon rejected the two. Out of these three one was tried by the two others, and accepted as a good juror. He was associated with one of the remaining two to try the third, who was accepted. The last of the three was tried by the two who had been tried and accepted as good

¹ No. 8 (pp. 486-492). Cf. Co. Litt., 158.

jurors, and he was rejected. The two who had by this curious process been tried and accepted as good jurors were then sworn to try the principal matter. A writ was afterwards sent to the Sheriff to cause to come, in addition to the two, *duodecim tales* to try the issue in the cause.

There is a second but somewhat confused report of this case, in which the numbers differ, four instead of three being given as the number of triers first sworn, and three instead of two as the number of those who stood as good jurors after the trial of the jurors was ended. It makes two out of the four original triers to be rejected, and after their rejection to be associated with a third person to try the other two, who were accepted. "And so note," it says, "that after they had been withdrawn or rejected the two triers could say whether their companions had taken bribes." According to the first report, it will be observed, the matter was so managed that no one who had been rejected as a juror (though he might have been challenged) became a trier.

I have again the pleasure of offering my best thanks to the Benchers of the Honourable Society of Lincoln's Inn for the loan of their most valuable manuscript.

L. OWEN PIKE.

Lincoln's Inn,
21st March, 1908.

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THE CHANCELLOR, JUSTICES OF THE TWO
BENCHES, TREASURER, AND BARONS OF
THE EXCHEQUER, DURING THE PERIOD
OF THE REPORTS.

Chancellor.

John de Offord.

Justices of the Court of King's Bench.

Sir William Scot, Chief Justice.

Sir Roger de Baukwell.

Sir William Basset.

Sir William de Thorpe.

Justices of the Court of Common Pleas.¹

Sir John de Stonore, Chief Justice.

Sir William de Shareshulle, or Sharshulle.²

Sir Roger Hillary.

Sir Richard de Kelleshulle, or Kelshulle.

Sir Richard de Wylughby, or Willoughby.

Sir John de Stouford.³

Treasurer.

William de Edyngton.

Barons of the Exchequer.

Sir Robert de Sadington, Chief Baron.⁴

Sir William de Broclesby.

Sir Gervase de Wilford.

Sir Alan de Asshe.

¹ As ascertained from the Feet of Fines of the three Terms.

² Appointed Second Justice, 10 Nov., 1345, *Rot. Lit. Pat.* 19 Edw. III., p. 2, m. 2.

³ Stouford's changes of position are curious, and somewhat difficult to follow. His name appears among those of the Justices of the Common Bench as early as Hilary Term, 19 Edw. III. There are Letters Patent appointing him to the office on the 25th of May in the same year (1345). He was Chief Baron of the Exchequer from the 10th of November to the

8th of December, 1346. In Hilary Term, 20 Edw. III. (1346), he reappears on the Plea Rolls of the Common Bench as one of the Counsel or "Narratores" receiving chirographs of Fines, but he also appears in the Feet of Fines of the same Term as one of the Justices. There must have been a very short period during that Term in which he ceased to act as a Judge, and resumed his practice as counsel, before returning to the Bench.

⁴ Appointed Chief Baron, 8 December, 1345, *Rot. Lit. Pat.* 19 Edw. III., p. 2, m. 2.

**NAMES OF THE "NARRATORES," COUNTORS, OR
COUNSEL.¹**

Richard de Birton.
 Roger de Blaykestone
 Adam Bret.
 Hamo Derworthy.
 John de Gaynesford.
 Henry Grene.
 John de Havertyngton.
 John de Moubray.
 Henry de Mutlow.
 William Notton.
 Richard de la Pole.
 Peter de Richemunde.
 John de la Rokel, or Rokele.
 Hugh de Sadelyngstanes.
 Thomas de Seton.
 William de Skipwith.
 John de Stoufard.²
 Robert de Thorpe.

¹ Mentioned in the Plea Rolls of the Common Bench as receiving chirographs of Fines. The fact that the counsel mentioned in the "narratores" mentioned in the rolls was discovered through the minute inspection of the rolls which was necessary for my proposed calendar of them. See the Vol. of Y.B., 16 Edw. III., Part 2 (published in 1900), p. xi.

² See note 3, p. xlivi.

CORRECTIONS.

- Page 86, note 2, for "Crompton" read "Compton."
,, 115, margin, after "Dowere" add "[Fitz., *Jugement*, 176.]"
,, 118, line 27, for "esson" read "essoin."
,, 251, notes, col. 2, line 3, for "judicum" read "judicium."
,, 307, note 2, for "Lincolniensis" read "Lincolniensis."
,, 334, note 1, for "and 5" read "and 4."
,, 392, line 25, for "seised" read "seized."
,, 394, line 5, for "seised" read "seized."
,, 419, note 4, for "116" read "100."
,, 492, line 22, for "a" read "the"; and for "had" read "had
not."
,, 498, line 18, for "par" read "pas."
,, 521, note 1, line 17, for "prædicta" read "prædictæ."
,, 578, note 2, line 7, for "armi" read "armis."
,, 598, col. 1, line 10, for "64" read "66."
,, 627, col. 2, line 26, for "de" read "le."

In the volume next preceding (Easter—Michaelmas,
19 Edward III.)

- Page xxxvii, line 12} for "Eleanor" read "Isabella."
,, xl, line 85}

HILARY TERM
IN THE
TWENTIETH YEAR OF THE REIGN OF
KING EDWARD THE THIRD
AFTER THE CONQUEST.

HILARY TERM IN THE TWENTIETH YEAR OF THE
REIGN OF KING EDWARD THE THIRD AFTER
THE CONQUEST.

No. 1.

A.D.
1345-6 (1.) § A *Quid juris clamat* was sued against two
Quid juris persons.—*Thorpe*, for one of them, said that she had
clamat. nothing then, and had nothing on the day of the note of the fine. And as to the other he said that the person who was named with him in the writ was seised of the same tenements before the day of the note, and was so seised by virtue of a gift made to her and her husband in frankmarriage, and that her husband died without issue, and that she leased her estate to him, and he said by way of protestation, in order to save his estate, that the donor had released all right to him, and (said *Thorpe*) we do not understand that upon such a note he shall be put to claim.—*Moubray*. His plea is double, one that one of the persons named in the writ has nothing, the other that the other person named claims the fee.—*Thorpe*. As to the claim of the fee, we do not use that by way of answer, but inasmuch as the note supposes that the two held for their lives on the day of the note, we falsify that supposition by showing that one of them had nothing.—*Seton*. And, inasmuch as you take that for your plea, it seems that you say nothing on behalf of the one who is tenant as a reason why he ought not to attorn; for, in former times, when a tenant for term of life leased his estate to another by fine, the reversion was granted after the death of both, and so, though the reversion be granted after the death of both,

DE TERMINO HILLARII ANNO REGNI REGIS
EDWARDI TERTII A CONQUESTU VICESIMO.¹

No. 1.

(1.)² § *Quid juris clamat* suy vers³ deux.—*Thorpe*, A.D. 1345-6.
pur lun, dit qil navoit riens, ne avoit⁴ jour de la note, &c. Et quant al autre il dit qe celuy qe fuit nome ovesqe luy fuit seisi de mesmes les tenements [Fitz., Quid juris devant la note, et ceo par doun fait a luy et son clamat, baroun en frank mariage, et son baroun murust⁵ saunz 30.] issue, et ele lessa son estat a luy, et, pur protestacion, de soun estat sauver, dit qe le donour avoit relesse a luy tut son dreit, et nentendoms pas qe sur tiel note⁶ il serra⁷ mys de clamer.—*Moubray*. Son plee est double, un qe lun des nomes nad riens, autre qe la autre cleyme fee.—*Thorpe*. Quant a clamer de fee,⁸ nous lusoms pas⁹ pur respons, mes de ceo qe la¹⁰ note suppose qe les deux tiendrount a lour vies jour de la note, cella fauxoms nous par tant qe lun navoit rienz.—*Setone*. Et puis qe vous pernetz cella pur le plee, si semble il qe vous¹¹ ditetz rienz pur celuy qest tenant pur quey il ne¹² deit attourner; qar, devant ces heures, ou tenant a terme de vie lessa soun estat a autre par fyne, homme graunta la reversion apres le decees de touz deux, et auxint, tut soit reversion graunte apres le decees de deux,

¹ The reports of this Term are from the Lincoln's Inn MS. (called L.), the Harleian MS., No. 741 (called H.), the MS. in the University Library at Cambridge Hh. 2, 3 (called C.), and the Isham transcript (called I.).

² From the four MS., as above.

³ C., devers.

⁴ I., ne navoit,

⁵ C., mort.

⁶ I., title.

⁷ C., serreit.

⁸ The words de fee are omitted from C.

⁹ pas is omitted from I.

¹⁰ C., le.

¹¹ vous is omitted from C.

¹² ne is omitted from I.

No. 2.

A.D.
1345-6.

even though it be the fact that one has nothing, the note is not thereby avoided, and consequently let him who is tenant show some cause wherefore he ought not to attourn.—SHARSHULLE. Then is it the fact that one of them has nothing, and had nothing on the day on which the note of the fine was levied?—*Moubray*. We have no need to answer.—HILLARY. By his answer he has falsified the note. Will you maintain it, or not?—*Seton*, seeing the opinion of the Court, tendered the averment that they held jointly as the note supposes; ready, &c.—And the other side said the contrary.—*Skipwith*. Now we pray that the defendants may appoint an attorney, for they will not attorn upon this note, because a fee is claimed, &c.—HILLARY. This claim is not taken for a plea, and therefore, if it be found against them, they will attorn.—And therefore they were not admitted to appoint an attorney.

Annuity

(2.) § Annuity¹ for William de Edyngton, Master of the House of St. Cross by Winchester, against a parson who had aid of the King, as appears above. And now the King sent a writ *de procedendo*.—*Sadelyngstanes*. Since the last continuance the plaintiff has been elected and confirmed Bishop of Winchester, and so in virtue of that name of dignity he has lost every other official name, and so he has abated his own writ; judgment of the writ.—*Birton*. And since you do not allege that he is Bishop by creation, so that even if it were as you say, which we do not admit, he still remains Master, &c., as before, and since you do not say anything else, we demand judgment.—SHARSHULLE and HILLARY to

¹ The report is in continuation of Y.B., Mich., 19 Edw. III., No. 30, p. 360, where the record (*Placita de Banco*, Mich., 19 Edw. III., R^o 359 d.) is cited. The defendant was John Mouner, parson of the church of Stockton (Wilts).

No. 2.

tut soit il¹ issi qe lun nad rienz, la note nest pas par taunt voide, et, *per consequens*, celuy qest tenant die rienz pur quei il ne² deit attourner.—SCHAR. Donques est il issint qe lun nad rienz, ne navoit³ jour de la note leve?—Moubray. Nous navoms meister a respondre.—HILLARY. Par son respons il ad fauxe la note. Le voillettz vous meytener ou noun?—Setone, *ridens opinionem CURIAE*, tendist⁴ daverer qils tiendreint joyntement come la note suppose; prest, &c.—Et alii e contra.—Skip. Ore prioms qe les defendantz puissent faire attourne, qar ils nattournerount⁵ pas sur ceste note, qar fee est clame, &c.—HILL. Cest clamer nest pas pris pur plee, par quei si trove soit encountre eux⁶ ils attournerount⁵—Et pur ceo ils⁷ ne furent pas resceu de faire attourne, &c.

(2.)⁸ § Annuite pur William Dedyngtone,⁹ Mestre de la mesoun de Seynte Croiz,¹⁰ juxte Wyncestre, vers une personne qe avoit eide du Roi, *ut patet supra*. Et ore le Roi maunda brief daler avant.—Sadel. Puis la darreyne¹¹ continuance le pleintif est eslit Evesqe de Wyncestre et conferme, et issint par cel noun de dignite il ad perdue chesqun autre noun doffice, et issint ad il abatu soun brief demene; jugement du brief.—Birtone.¹² Et del houre qe vous nallegetz pas qe par creacion il soit Evesqe, issint qe tut fut il come vous parletz, come nous ne conissons pas, unqore il demoert¹³ Mestre, &c., come avant,¹⁴ et autre chose ne ditetz, nous demandoms

¹ il is from H. alone.

² ne is from H. alone.

³ H., avoit.

⁴ C., tendi.

⁵ C., nattournerent.

⁶ I., vous.

⁷ ils is from H. alone.

⁸ From the four MSS., as above.

⁹ L., and I., de Edyngtone; H., de Edyndone.

¹⁰ C., Croys.

¹¹ L. and I., dreyne.

¹² C., Brett.

¹³ H. and C., demurt.

¹⁴ C., devant.

A.D.
1345-6.

Annuite.
[Fitz.,
Briefe,
250.]

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A.D.
1345-6. *Sadelyngstanes.* Will you say anything else?—
Sadelyngstanes traversed the prescription which the plaintiff took for his title.

Avowry. (3.) § Thomas de Stirkeland brought a Replevin against Roger de Burton. By reason of the non-suit of the plaintiff heretofore the defendant had the Return. And the plaintiff had a writ of Second Deliverance out of the rolls, returnable now, and no writ is returned. Therefore *Moubray* recited this process, and said that the second deliverance had been made though the writ had not been served, and prayed the Return irrepleviable by reason of the plaintiff's non-suit.—*Havryngton*. The Court cannot be apprised of your statement if the writ be not served, and it is not of record that we sued this Second Deliverance, because any one who chooses to ask for it can have it; and in case that can make an issue we shall be ready to maintain that the second deliverance has not been made; therefore we pray an *Alias* writ *de Secunda Deliberatione*.—*Moubray*. And we shall be ready to maintain that the second deliverance was made, and that you are seised of the beasts, if that can make an issue; and, if that be so, the fact that the officer has not returned the writ will not be turned to our prejudice.—Afterwards the COURT was minded to award the *Alias* writ; but the writ was served later, and returned.—Therefore, after the count had been counted *Moubray* avowed on Walter de Stirkeland, as on his own tenant by

No. 3.

jugement.—SCHAR. et HILLARY a Sadel. Voilletz autre chose dire?—Sadel. traversa la prescripcion quele il prist pur title.

(3.)¹ § Thomas de Stirkeland porta *Replegiari* vers Avowere.²
 Roger de Burtone.³ Par noun suyte le defendant [Fitz., Retourne
 avoit retourne autrefoith. Et le pleintif avoit brief *des avers,*
 hors de roulles de la secounde deliveraunce retournable
 a ore, et nul brief est retourne. Par quei Moubray
 rehercea ceo proces et dit qe la secounde deliveraunce
 fuit faite coment qe le brief nest pas servy, et pria
 retourne nient replevissable par noun suyte del
 pleintif.—Har. Court ne put estre appris de vostre
 dit si le brief ne soit⁴ servy, ne⁵ il nest pas de
 recorde qe nous suimes cel secounde deliveraunce,⁶
 pur ceo qe chesqun qe le voile⁷ demander le poet⁸
 aver; et en cas qe il purra⁹ faire issue nous serrons
 prest de meyntenir qe la secounde deliveraunce ne
 se fit pas; par quei nous prioms *sicut alias*.—
Moubray. Et nous serrons prest de meyntenir qe
 la secounde deliveraunce se fit, et qe vous estes seisi
 des bestes, sil purra faire issue; et, si issi soit, de
 ceo qe le ministre nad pas retourne le brief ne nous
 tournera pas en prejudice. Puis la COURT voleit
 aver¹⁰ agarde *sicut alias*; mes apres le brief
 fut¹¹ servy et¹² retourne. Par quei apres counte counte [Fitz.,
Moubray avowa sur¹³ Wauter Stirkeland, come sur Avowere,
 125.]

¹ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 314.

It there appears that the action was brought by Thomas son of Walter de Stirkeland against Roger de Burton, knight, in respect of a taking of four oxen and six cows “die Lunæ proxima ante Festum “Sancti Andreæ Apostoli anno “domini Regis nunc undecimo, in “villa de Burtone in Kendale “in quodam loco qui vocatur

“Hencastre.”

² C., *Replegiari*.

³ L., H., and I., Birtone.

⁴ L., and I., serroit; C., fuit.

⁵ C., et.

⁶ C., brief.

⁷ L., voleit, instead of le voile.

⁸ C., poait.

⁹ C., purreit.

¹⁰ aver is from H. alone.

¹¹ fut is omitted from C.

¹² C., fuit.

¹³ C., pur.

No. 3.

A.D.
1345-6. virtue of the statute,¹ for homage, &c.—*Hareryngton*. We tell you that Roger, great-great-grandfather of the avowant, before the statute, enfeoffed one W.² of a carucate of land, to hold by the services of 6s. 8d. in lieu of all services. And *Hareryngton* showed that afterwards the heir of the donor purchased a third part of the same tenements in demesne, and alleged that the very tenant gave the two other parts to one J.² in fee tail, with remainder in fee simple to the plaintiff. And we demand judgment (said *Hareryngton*) whether the defendant can make avowry on any other person than upon him. And *Hareryngton* said further that the plaintiff had always been and still was ready to perform the services due in respect of his portion.—*Moubray*. We tell

¹ 18 Edw. I. (*Quia emptores*).

² For the real names, &c., see
p. 9, note 3.

No. 3.

soun tenant par statut, pur homage, &c.¹—*Har.* A.D. 1345-6.
 Nous vous dioms qe R. tresael lavowaunt feffa, avant statut, un W. dune carue de terre, a tenir par les services de vjs. viiid. pur toux services. Et puis moustra qe leire le donour ad purchase la terce partie de mesmes les tenementz en demene, et alleggea qe le verroi² tenant dona les ij parties a un J. en fee taille, le remeindre de fee simple a ceste qe se pleynt. Et demandoms jugement si sur autre qe sur luy purra avowere faire. Et dit outre qe tut temps il ad este prest et unqore est de faire les services dues de la porcion.³ *Moubray.* Nous vous dioms qe autrefoith,

¹ The avowry was, according to the record, "quod quidam Adam Gernet tenuit de ipso Rogero duo mesuagia et duas carucatas terræ, cum pertinentiis, in Burtone in Kendale, unde prædictus locus in quo, &c., est parcella, per homagium, fidelitatem, et servitium sex solidorum et octo denariorum per annum, et ad scutagium domini Regis quadraginta solidorum cum acciderit decem solidos, et ad plus plus et ad minus minus, et faciendo sectam ad curiam ipsius Rogeri Burtone de tribus septimanis in tres septimanas, de quibus servitiis quidam Rogerus de Burtone, pater ipsius Rogeri de Burtone, cuius heres ipse est, fuit seisisitus per manus prædicti Adm ut per manus veri tenentis sui, qui quidem Adam feoffavit inde Walterum de Stirkeland tenendis sibi et heredibus suis in perpetuum, per quod idem Walterus devenit tenens ipsius Rogeri virtute statuti, &c. Et quia homagium et fidelitas prædicti Walteri post mortem prædicti Adm et redditus prædictus per

"undecim annos antediem captionis prædictæ eidem Rogero aretro fuerunt, cepit ipse prædictos boves et vaccas pro homagio prædicto in prædicto loco, prout ei bene licuit, &c."

² C. (by interlineation in a later hand), qapres cele qe vous supposez estre votre, instead of qe le verroi.

³ The plea on behalf of Thomas was, according to the record, "quod quidam Rogerus de Burtone, triavus prædicti Rogeri, cuius heres ipse est, diu ante statutum, &c., dedit cuidam Adm Gernet quædam tenementa per nomen unius mesuagii et unius carucatae terræ, unde prædicta duo mesuagia et duas carucatas terræ, unde prædictus locus in quo, &c., fuerunt duæ partes, tenenda ipsi Adm et heredibus suis de ipso Rogero et heredibus suis per servitia sex solidorum et octo denariorum per annum pro omnibus servitiis, &c., qui quidam Adam obiit inde seisisitus. Et de ipso Adam exivit quidam Johannes, et de ipso Johanne exivit quidam Johannes, qui

No. 3.

A.D. 1345-6. you that heretofore, on this same taking, we avowed as we have now done, &c., and at that time he alleged that he was our tenant in respect of a moiety of the whole, &c., and that our ancestor had purchased the demesne of the other moiety; and he said that he had tendered a moiety of the services, in this way acknowledging that he did not tender the entirety of the services due for the portion in respect of which he now acknowledges that he is our tenant; and inasmuch as he is a stranger to our avowry, and could not compel us to avow upon him, by reason of the matter which he has put forward, except by a tender of all the services due in respect of the tenements holden of us, and he heretofore confessed, on this same taking, that he tendered only in respect of part, and not in respect of the entirety, we therefore demand judgment, and pray

No. 3.

a mesme ceste prise, nous avowames come ore feimes, &c., a quel temps il allegaea coment il fuit nostre tenant de la moyte del entere, &c., et de lautre moyte nostre auncestre avoit purchace le demene; et dit qil avoit tendu la moyte des services, et issi conissant qil ne tendi pas lenterete¹ des services dues par la porcion de la quele il conust ore estre nostre tenant; et desicome il est estraunge a nostre avowere, et ne nous pout² chacer davower sur lui par la matere quele il ad moustre forqe par tendre de touz les services des tenementz tenuz de nous, et autrefoith conissast a mesme ceste prise, qil tendi forqe pur parcelle et ne mye pur lenterete,³ par quei nous demandoms jugement et prioms retourne nient replevisable⁴—

“ quidem Johannes filius Jo- “ queritur, &c., qui quidem Ra-
 “ hannis fuit seisisitus de in- “ dulphus obiit sine herede de se,
 “ tegro eorundem tenementorum, “ per quod ipse Thomas seisisitus
 “ et de tertia parte illorum tene- “ est de duabus partibus prædictis
 “ mentorum feoffavit quendam “ virtute feoffamenti prædicti, quæ
 “ Rogerum de Burtone, avum præ- “ sunt ista duo mesuagia et due
 “ dicti Rogeri, cuius heres ipse est, “ carucatæ terræ unde prædictus
 “ et de duabus partibus eorundem “ locus in quo, &c., est parcella.
 “ tenementorum, quæ sunt præ- “ Et ita est ipse tenens prædicti
 “ dicta duo mesuagia et duæ “ Rogeri de duabus partibus illis,
 “ carucatæ terræ unde prædictus “ et semper paratus fuit facere
 “ locus in quo, &c., est parcella, “ eidem Rogero servitia inde
 “ obiit seisisitus, post cuius mortem “ debita pro portione, &c., unde
 “ intravit in eisdem prædictus “ petit judicium si super alium
 “ Adam Gernet ut filius et heres, “ quam super ipsum pro servitiis
 “ per cuius manus prædictus “ illarum duarum partium advo-
 “ Rogerus supponit prædictum “ care possit, &c.”
 “ patrem suum fuisse seisisitus de “ C., plenerte, instead of pas
 “ servitiis prædictis, qui quidem
 “ Adam feoffavit inde prædictum
 “ Walterum de Stirkeland, et idem
 “ Walterus feoffavit inde quendam
 “ Radulphum filium ejusdem Wal-
 “ teri tenendis ipsi Radulpho et
 “ heredibus de corpore suo exeunti-
 “ bus, ita quod si idem Radulphus
 “ obiret sine, &c., tenementa illa
 “ remanerent isti Thomæ qui nunc

“ dulphus obiit sine herede de se,
 “ per quod ipse Thomas seisisitus
 “ est de duabus partibus prædictis
 “ virtute feoffamenti prædicti, quæ
 “ sunt ista duo mesuagia et due
 “ carucatæ terræ unde prædictus
 “ locus in quo, &c., est parcella.
 “ Et ita est ipse tenens prædicti
 “ Rogeri de duabus partibus illis,
 “ et semper paratus fuit facere
 “ eidem Rogero servitia inde
 “ debita pro portione, &c., unde
 “ petit judicium si super alium
 “ quam super ipsum pro servitiis
 “ illarum duarum partium advo-
 “ care possit, &c.”

¹ C., plenerte, instead of pas
 lenterete.

² C. poet.

³ L., H., and I., lentier.

⁴ The replication on behalf of Roger was, according to the record, “ Rogerus, non cognoscendo quod ipse est tenens de aliqua parcella prædicatorum tenementorum sicut prædictus Thomas asserit, dicit quod alias in Curia

A.D.
1345-6

No. 3.

A.D. 1345-6. the Return irreplevisable.—*Harcryngton*. This avowry is made on the Second Deliverance, on which the plaintiff may vary from his first count, and the avowant from his first avowry, so that he cannot take advantage of matters previously pleaded. Besides, when we said that we tendered the services in respect of a moiety, we did not say in respect of a moiety only, so that what we said before might be

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Har. Ceste avowere est faite sur la secounde deliveraunce, en quel le pleintif poet varier de soun primer count, et lavowant de sa primere avowere, issi qe des choses pledes avant il ne poet prendre avantage. Ovesqe cella, quant nous deismes¹ qe nous tendimes les services de la moyte, nous ne deymes mye qe soulement de la moyte, issi qil pout esteer

A.D.
1345-6.

" Regis hic, scilicet a die Sancti Michaelis in xv dies anno regni Regis nunc duodecimo, prædictus Thomas questus fuit quod idem Rogerus et quidam Johannes Baret præfata die Lunæ ceperunt prædictos quatuor boves et sex vaccas in prædicto loco de Hencastre, et idem Rogerus pro se et prædicto Johanne adtunc advocaverunt prædictam captiōnem esse justam, &c., eadem ratione et eadem causa qua nunc advocat, &c. Ad quod idem Thomas tunc asseruit præfatum Johannem filium Johannis filii Adæ Gernet fuisse seisitum de prædictis tenementis, cum pertinētiis, et dixit quod idem Johannes filius Johannis de medietate tenementorum illorum feoffavit quendam Rogerum de Burtone avum ipsius Rogeri nunc, cuius heres ipse est, et de alia medietate eorundem tenementorum obiit seisitus. Et postmodum prædictus Adam, per cuius manus supponit præfatum Rogerum, patrem, &c., fuisse seisitum de servitiis prædictis, feoffavit inde prædictum Walterum, qui postea feoffavit inde præfatum Radulphum in forma prædicta, ita quod si, &c., virtute cuius feoffamenti idem Thomas tunc dixit se fuisse seisitum de medietate prædicta pro eo quod prædictus Radulphus obiit sine,	" &c., et unde prædictus locus in quo, &c., est parcella. Et dixit quod ipse fuit tenens prædicti Rogeri de medietate illa, et semper paratus fuit facere eidem Rogero servitia inde debita, et pro portione, &c. Et petit judicium si super alium quam super illum pro servitiis illius medietatis advocare posset, &c. Et ita dicit quod, ubi prædictus Thomas nunc supponit ipsum esse tenentem ejusdem Rogeri de duabus partibus tenementorum prædictorum, et quod ipse semper paratus fuit facere eidem Rogero servitia debita pro duabus partibus illis, hoc dicere non potest, quia dicit quod idem Thomas adtunc asseruit ipsum fuisse tenentem nisi de medietate prædictorum tenementorum, et servitia pro medietate illa tantum facere dixit de semper paratum fuisse, per quod ad dicendum quod ipse Thomas est tenens ejusdem Rogeri de duabus partibus eorundem tenementorum, et quod ipse servitia debita de duabus partibus illis semper paratus fuit facere eidem Rogero admitti non debet contra hoc quod ipsem alias in Curia hic in responsione sua supponit, unde petit judicium et returnum prædictorum ateriorum, &c." ¹ C., deimes.
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No. 8.

A.D. 1345-6. consistent with that which we say now. Besides, that which we say now is to his advantage, and therefore he cannot insist on its contradictoriness.—*STONORE*. Since you now admit that more is due than you previously said was due after the taking, it seems that you, who are a stranger, cannot by any law plead in abatement of his avowry.—*Birton*. The lord can avow on the feoffee by virtue of the statute¹ even without having seisin by the feoffee's hand; therefore when the person who was enfeoffed came to the lord and tendered his services, were the amount more, or were it less, he gave notice to the lord that he was that lord's tenant, so that the lord could avow upon him; therefore when after such tender he avows on a person other than the feoffee, whether the tender was of more or less, the avowry is bad.—*Richemunde*. A person who is enfeoffed, before he can compel the lord to avow upon him, must tender all that is due, with all the arrears; and by record, to which you were yourself a party, it is proved that you did not tender the entirety of the services in respect of which you now confess tenancy, and therefore we demand judgment.—*WILLOUGHBY*. Some people think that on this Second Deliverance the plaintiff cannot vary from his first count, nor the avowant from his first avowry.—*Quare*.—Afterwards, because the tenancy is now confessed to be larger than that in respect of which the tender was made on the first avowry, and so the COURT held that the tender before the taking was not sufficient, the Return irrepleivable was therefore adjudged.

¹ 18 Edw. I. (*Quia emptores*).

No. 3.

ceo qe nous deimes devant ove ceo qe nous dioms¹ a ore. Ovesqe cella, ceo qe nous dioms¹ a ore est en avantage de luy, par quei il ne poet prendre a la contrariouste.—STON. Quant vous conissetz ore qe plus est due qe autrefoith puis² la prise ne deistes,³ il semble qe⁴ vous questes estraunge ne poetz par nulle ley pleder al abatement de savowere.—*Birtone*. Le seignur poet avower sur le fesse par statut tut saunz seisine par my sa mayn; donques quant celuy qe fut fesse vient au seignur et tendi ses services, fut il plus, fut il⁵ meyns, il dona notice au seignur qil fut soun tenant, issi qil pout⁶ avower sur luy; donques quant apres tiel tendre il avowe sur autre qe sur le fesse,⁷ lequel⁸ le tendre fut de plus ou de meyns, lavowere est malveye.—*Rich.* Celuy quest fesse devant qe il chacera le seignur davowere sur luy il covient tendre quauntquest due ove touz les arrerages; et par recorde, a quel vous mesmes estoietz partie, il est prove qe vous ne tendistez pas lenterete⁹ de services de quei vous conissetz ore la tenance, par quei nous demandons jugement.—*Wilby*. Asquns gentz quident qe a cest Secounde Deliveraunce le pleintif ne poet varier de soun primer count ne lavowant de sa primere avowere.—*Quere*.—Puis, pur ceo qe la tenance est ore conu plus large qe le tendre fut fait a la primere avowere, et issint COURT tient qe le tendre devant la prise ne fut pas suffisaunt, par quei retour nient replevisable fut¹⁰ agarde.¹¹

A.D.
1345-6.¹ I., H., and I., deymes.² I., a.³ C., tendistes.⁴ The words il semble qe are omitted from C.⁵ H., and C., ou, instead of fut il.⁶ H., poait.⁷ C., tendre.⁸ I., et qe.⁹ C., plenerte, instead of pas lenterete.¹⁰ C., est.¹¹ The judgment, which immediately follows the replication on the roll, was "Quia per recordum hic de praedicto termino Michaelis compertum est quod praedictus Thomas de tenementis praedictis supponit ipsum tenuisse de præ-Fitz.,
Estopell,
186.]

No. 4.

A.D. (4.) § Debt was sued in the Exchequer by one
1345-6.
Debt.

No. 4.

(4.)¹ § Dette suy en Lescheker par un qe fut A.D. 1345-6.

" dicto Rogero medietatem tantum,	" dedit Curia intelligi quod quidam	Dette.
" et servitia pro eadem medietate	" Guillelmus Pouche, qui in Turri	[Fitz., Ley, 52.]
" tantum debita obtulit se facere,	" Londoniensis in custodia Constabu-	
" et modo expresse cognovit quod	" larii ejusdem Turris, certis de	
" ipse est tenens ejusdem Rogerii	" causis, existit, eidem Hardelevo	
" de duabus partibus tenemento-	" teneatur in cxxij libris, xij	
" rum praedictorum, et tunc fuit,	" solidis. Et petit quod praedictus	
" pro quibus ad plenum ante	" Guillelmus veniat hic ad	
" tempus istud non obtulit se	" respondendum inde Regi in	
" facere servitia inde debita eidem	" partem solutionis debitorum	
" Rogerio, per quod consideratum	" ipsius Hardelevi praedictorum	
" est quod idem Rogerus habeat	" juxta prerogativam Regis in	
" returnum praedictorum boum et	" hac parte; propter quod pra-	
" vaccarum irreplegibile in per-	" ceptum fuit Constabulario Turris	
" petuum. Et idem Thomas in	" praedictae, vel ejus locum tenenti,	
" misericordia, &c."	" quod venire faceret hic modo,	
"	" videlicet ad Crastinum Concep-	
" From the four MSS., as above.	" " tionis beatæ Mariæ, præfatum	
The case appears to be that found	" Guillelmum ad respondendum	
on the Plea Roll of the Exchequer of	" Regi de cxxij libris, xij solidis	
Pleas, 20 Edw. III. " Adhucde quin-	" praedictis in partem solutionis	
" dena Sancti Martini anno xx ^o ."	" debitorum ipsius Hardelevi,	
The skin has a modern pencil	" prout idem Hardelevus ostendere	
number 16, the Exchequer Plea	" poterit, &c.	
Rolls not having been numbered	"	
in early times.	" Ad quem diem idem Guillel-	
" London. Memorandum quod	" mus in custodia Johannis Hol-	
" Hardelevus de Bartone, qui in	" crofte, locum tenentis Roberti de	
" prona Regis de Flete existit	" Daltone Constabularii Turris	
" pro mxxj libris de remanentia	" praedictæ, venithic. Et praedictus	
" compoti sui de lanis per ipsum	" Hardelevus dicit quod cum ipse	
" de Rege emptis recipiendis per	" nuper emisset de domino Rege	
" manus Roberti de Beghton et	" dictos cvj saccos, iij queraria,	
" Simonis de Lentone nuper	" v petras, x libras dimidiæ lanceæ	
" receptorum lanarum dicti Regis	" pro quadam summa pecunia,	
" in Comitatu Notinghamiæ de	" eademque lanceæ eidem Harde-	
"	" levo liberatae fuissent per breve	
" xx saccis lanceæ de illis xxx saccis	" Regis de magno sigillo suo, juxta	
" lanceæ eidem Regi anno regni sui	" formam conventionum inde inter	
" xv ^o concessis, et pro cvj saccis	" dominum Regem et ipsum	
" iij querariis, v petris, x libris et	" junctarum, ipseque de eisdem	
" dimidia lanceæ de dictis lanceis in	" lanis versus Regem oneratus	
" Comitatu Notinghamiæ in quibus	" existat, sicut plenius liquere	
" Regi tenetur, venit hic in custodia	" potest per memoranda hujus	
" Custodis dictæ prisonæ de Flete,	" Scaccarii, Et postmodum pro	
" xxj die Novembris hoc anno, et	" eo quod eadem lanceæ assignatae	

No. 4.

A.D. 1345-6. who was the King's debtor in respect of the King's wools, and who alleged that he sold part of the wools to the defendant, and that the defendant had not paid him. The defendant proffered his law, which was counterpleaded on the ground that the King was in a manner party: for, if the plaintiff should recover, the King would have execution in satisfaction of the debt due to him, and for that purpose, and no other, was the suit maintained in the Exchequer; and even if the plaintiff were nonsuited, or would now release to the defendant, the King would nevertheless have the suit, because, when anyone is the King's debtor and has not wherewithal to make satisfaction, the Court will give directions to enquire as to the debts which are owing to him, and by process cause them to be levied to the King's use, &c.—And on the refusal of this wager of law they were adjourned.—And now the defendant tendered the averment that he owed

" fuerint Philippæ Reginæ Angliæ,
 " Consorti Regis, sub certa forma
 " conventa inter dictum Hardele-
 " vum et Guillelmum Pouche,
 " attornatum dominæ Reginæ in
 " hac parte, quod idem Hardelevus
 " haberet dictas lanas ex conces-
 " sione ipsius Reginæ virtute
 " assignationis sibi factæ in hac
 " parte pro Dexlī libris, xiiij solidis,
 " de qua summa idem Guillelmus
 " recepit cxxlj libras, xiiij solidos,
 " videlicet xxx libras die Jovis
 " proxima post Festum Sancti
 " Marci Evangelistæ anno xvij
 " Regis nunc in warda de Doune-
 " gate in Londoniis per manus
 " Henrici Pykard, xxxj libras die
 " Sabbati tunc proxime sequente
 " in warda de Cordwanerstrete in
 " Civitate prædicta per manus
 " Petri del Clay, cx libras die Jovis
 " proxima post Festum Sanctorum
 " Philippi et Jacobi eodem anno
 " xvij, apud Kyngestone super
 " Hulle, per manus Dolfini Pouche,
 " et lxx libras, xiiij solidos die
 " Sabbati tunc proxime sequente
 " ibidem per manus Dominici
 " Lumbard per ipsum Guillel-
 " mum ad hoc deputatorum.
 " Et petit quod, cum ipse adhuc
 " oneratur versus Regem integre
 " de dictis lanis, quod dictus
 " Guillelmus respondeat Regi de
 " prædictis cxxlj libris, xiiij solidis
 " per ipsum receptis in forma
 " prædicta in partem solutionis
 " debitorum ipsius Hardelevi præ-
 " dictorum. Et quod dictus Guil-
 " lelmus debet summam prædictam
 " ex causa prædicta paratus est
 " verificare qualitercumque Curia,
 " &c."

No. 4.

dettour au Roi des leins le Roi, le quel alleggea qil vendist partie des leins al defendant, qe nad pas paie a luy. Le defendant tendi sa ley, qe fut countreplede pur ceo qe le Roi est en manere partie: qar, si le pleintif recoverast, le Roi avereit¹ execucion en allowaunce de la dette due² a luy, et a cel entente, et a nulle autre, est la suyte meyntenu en celle³ place; et tut fut le pleintif nounsuy, ou voleit relessier ore⁴ al defendant, le Roi, *non obstante*, avereit la suyte, qar quant un homme est dettour au Roi et nad dount faire gree, Court maundera⁵ denquere des dettes qe sount⁶ dues a luy, et par proces les fait lever⁷ al oeps le Roi, &c.⁸— Et sur la ley refuse furent ajournez.⁹—Et ore le defendant tendi daverer qe rienz ne luy devoit.—

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1345-6.¹ C., avereit.² H., diwe.³ C., ceste.⁴ C., a ore.⁵ H., maundra.⁶ The worde qe sount are omitted from C.⁷ H., livrer.⁸ According to the record the proffered wager of law and pleadings thereon were as follows:—

“ Et præfatus Guillelmus dicit
 “ quod ipse, ratione dicti con-
 “ tractus de lanis prædictis,
 “ præfato Hardelevo ccxlj libras
 “ xiiij solidos, seu quicquam inde
 “ non debet. Et hoc paratus est
 “ defendere per legem suam, &c.”
 “ Et præfatus Hardelevus, pro
 “ Rege et se ipso, dicit quod exquo
 “ ipse prætendebat verificare, pro
 “ Rege et se ipso, quod dictus
 “ Guillelmus recepit ccxlj libras
 “ xiiij solidos prædictos in forma
 “ prædicta, qui quidem contractus
 “ et receptio constant in cognitione
 “ patriæ, et per patriam verificari

“ possunt, et idem Guillelmus
 “ nihil aliud pro se allegat nisi
 “ tantum per legem suam defendere
 “ se denarios prædictos ea oc-
 “ casione non debere, &c., qui
 “ quidem exitus placiti erga Regem
 “ in hoc casu in Curia ista contra
 “ Regem non debet admitti, petit
 “ judicium, &c.
 “ Et dictus Guillelmus ad hoc
 “ dicit quod, desicuit idem Harde-
 “ levus nullum factum speciale de
 “ contractu et solutione prædictis
 “ ostendit, et ipse Guillelmus se
 “ denarios prædictos non debere
 “ ex causa dicti contractus per
 “ legem suam defendere sit para-
 “ tus, qui quidem exitus secundum
 “ communem legem terræ in con-
 “ simili casu est admittendus exquo
 “ Rex sine prædicto Hardelevo
 “ actionem habere non posset,
 “ petit inde judicium, &c. Et
 “ præfatus Hardelevus similiter
 “ &c.”
⁹ C., adjournetz.

No. 5.

A.D.
1345-6.

nothing to the plaintiff.—And because the defendant could not be admitted to wage his law, for the reason above, and the last issue was also inadmissible, and as he could not be admitted to either, judgment was given that the plaintiff should recover the debt, &c., and that the King should have execution, &c.

*Quare
impedit.*

(5.) § A *Quare impedit* was brought, on behalf of the King, against the Prior of Merton, on which the count was that the Prior's predecessor presented, &c., that through his death the temporalities came into the King's hand by reason of wardship, that the King leased the temporalities to a Sub-prior and the Convent, reserving fees and advowsons to himself, that afterwards one Thomas de Kent,¹ a predecessor of the existing Prior, having been elected Prior, intruded upon the temporalities, the fees and advowsons remaining in the King's hand, that at that time the church became void, &c., that after the death of Thomas¹ the predecessor, &c., and

¹ For the real name see p. 23, note 1.

No. 5.

Et pur ceo qil ne poait avenir a sa ley, *causa qua supra*, ne cest drein¹ issue nest pas resceivable, pur ceo qe il ne poait² avenir, &c., fut agarde qe le pleintif recoverast la dette, &c., et qe le Roi ust execucion, &c.³

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1345-6.

(5.)⁴ § *Quare impedit* pur le Roi vers le Priour de *Quare impedit.*
Mertone, countant qe soun predecessor presenta,
&c., et qe par sa mort les temporaltes devyndrent
en la meyn le Roi par cause de garde, et qe le Roi
lessa a un Suppriour et a Covent les temporaltes,⁵
reservant⁶ fees et avowesouns a luy, et puis un
Thomas de Kente, predecessor, &c., eslieu⁷ en
Priour, &c., sabati en les temporaltes, fees et
avowesouns demurauntz⁸ en la meyn le Roi, a quel
temps leglise se voida, &c., et puis la mort Thomas

¹ C., darrein.

² C., poet.

³ The words et qe le Roi ust execucion, &c., are from H. alone, The words of the record, from the adjournment on the question of the wager of law to the end, are as follows:—

“ Super quo, quia Curia vult
“ plenius inde deliberare antequam,
“ &c., datus est dies partibus hic
“ in Octabis Sancti Hillarii ad
“ recipiendum inde quod, &c. Et
“ dictum est prefato Johanni
“ Holcrofto quod habeat dictum
“ Guillelmum hic ad Octabas praedictas. Ad quem diem tam
“ praedictus Hardelevus in custodia
“ Custodis prisonae de Flete, quam
“ praedictus Guillelmus in custodia
“ praedicti Johannis Holcroft
“ venerunt.
“ Et, habita super præmissis inter
“ Barones deliberatione pleniori,
“ consideratum est quod Rex
“ recuperet versus prefatum Guillelmum praedictos coxli libras

“ xij solidos in partem solutionis
“ debitorum praedicti Hardelevi
“ supradictorum, Et quod praedictus Guillelmus, qui jam in
“ prona de Flete de mandato
“ Regis extram [sic] Turrim praedictam, ex certis causis in eodem
“ mandato annotatis, committitur,
“ remaneat in eadem prona quoque
“ que, &c.”

“ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 64. It there appears that the action was brought by the King against the Prior of Merton in respect of a presentation to the vicarage of the church of Kingston-on-Thames.

⁵ C., les temporaltes al Prior et Covent, instead of a un Suppriour et a Covent les temporaltes.

⁶ reservant is omitted from C. and I.

⁷ H., and C., eslu.

⁸ In all the MSS. except C. the words a luy are inserted before demurauntz.

No. 5.

A.D. 1845-6. the temporalities came into the King's hand, and so remained until the present Prior sued restitution, and that so it belongs to the King to present.—*Mutloue* said that the vicarage, in respect of which, &c., was not void while the temporalities, fees, and advowsons were in the King's hand; ready, &c.—

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predecessour, &c., les temporaltes devyndrent en la meyn le Roi, et demurerent tanqe cest Priour suy restitucion, issint appent, &c.¹—*Mutl.* dit qe la vicarie dount, &c., ne fut pas voide esteauntz les temporaltes, fees, et avowesons en la meyn le Roi; prest, &c.²—

A.D.
1345-6.

¹ The declaration was, according to the roll, “quod quidam Thomas de Kente, quondam Prior, &c., prædecessor, &c., fuit seisitus de advocatione vicariæ prædictæ ut de jure Prioratus sui prædicti, tempore domini Regis nunc, qui ad eandem præsentavit quendam Humfridum de Wakefelde, clericum suum, qui ad præsentationem suam fuit admissus et institutus, . . . tempore ejusdem domini Regis nunc, post cujus resignationem prædicta vicaria modo vacat, &c., qui quidem Thomas de Kente Prior, &c., obiit, per quod idem dominus Rex nunc seisivit in manum suam temporalia Prioratus prædicti, simul cum feodis militum et advocationibus ecclesiistarum ad eundem Prioratum spectantibus, et temporalia illa dimisit Suppriori de Mertone qui tunc fuit et ejusdem loci Conventui tenenda durante vacatione Prioratus prædicti, et reddendo inde extenta domino Regi, &c., salvis semper eidem domino Regi et heredibus suis feodis et advocationibus, &c. Et postea quidam Johannes de Lutlyngtöne electus fuit in Priorem, &c., et installatus in eodem Prioratu, ac in temporalibus ejusdem Prioratus præfatis Suppriori et Conventui, ut præmittitur, sic dimissis se intrusit. Et postmodum vacante eodem Prioratu per cessionem prædicti Johannis de Lutlyngtöne Prioris, &c., dominus Rex

“seisivit in manum suam temporalia Prioratus prædicti, et ea dimisit præfatis Supriori et Conventui tenenda de domino Rege in forma prædicta, &c. Et præfatus Prior nunc electus fuit in Priorem, &c., et in temporalibus, &c., præfatis Supriori et Conventui in forma supradicta per dominum Regem dimissis se intrusit, advocationibus supradictis in manu Regis adhuc existentibus pro eo quod nec prædictus Johannes de Lutlyngtöne, quondam Prior, &c., nec prædictus Prior nunc easdem advocationes secutus fuit extra possessionem Regis usque decimum diem Novembris proxime præteritum, &c., infra quod tempus prædicta vicaria vacavit post resignationem præfati Humfridi, &c., per quod ad ipsum dominum Regem nunc pertinet ad prædictam vicariam præsentare . . . et hoc paratus est verificare pro domino Rege, &c.”

² The plea was, according to the roll, “quod tempore quo advocationes, &c., extiterunt in manu domini Regis post mortem prædicti Thomæ de Kente quondam Prioris, &c., usque prædictum decimum diem Novembris prædicta vicaria non fuit vacans prout prædictus dominus Rex in demonstratione sua supponit. Et hoc paratus est verificare, unde petit judicium, &c.”

No. 5.

A.D. 1345-6. *Thorpe.* And inasmuch as you have not denied that the church became void between the first seizure by the King and the suing of restitution (and if you would deny that we should be ready to maintain it), we demand judgment for the King.—*Pole.* You have given forth by your declaration that the King was seised of the fees and advowsons during the whole of that time, and therefore it suffices for us to traverse that.—*Thorpe.* Then we pray that the plea be entered.—*Pole* did not dare to abide judgment, but said that the church did not become void between the first seizure and the restitution; ready, &c.—*Thorpe.* He shall not be admitted to that averment, since he at first gave another answer to the action.—And afterwards *Thorpe* alleged one voidance by resignation, and another by death, between the two times, and that in that way the church did become void; ready, &c. And he said that he alleged the two voidances in order to save to the King the advantage of another presentation on another occasion.—*SHARSHULLE.* That he will have, but you are at a traverse, and will be, in general terms, on the voidance.

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Thorpe. Et de sicome vous navetz pas dedit qele ne se voida entre la primere seisine le Roi et la restitucion suy, quel si vous vodretz dedire nous serroms prest de meyntenir, nous demandoms jugement pur le Roi.—*Pole.* Vous avetz done par vostre demoustrance¹ qe le Roi tut cel temps fut seisi des fees et avowesouns, par quei a traverser cella il nous suffit.—*Thorpe.* Donques prioms qe le plee soit entre.—*Pole* nosa demurer, mes dit qe leglise² ne se voida pas entre la primere seisine et la restitucion; prest, &c.—*Thorpe.* A cele averement ne serra il resceu, del houre qil dona³ primes autre respons al accion.—Et puis *Thorpe* alleggea une voidaunce par resignement, autre par mort, entre les deux [temps, et issint voide; prest, &c. Et dit qil alleggea les deux]⁴ voidaunces pur sauver au Roi lavantage d'autre presentement autrefoith.⁵—*SCHAR.* Ceo avera il,⁶ mes vous estes a travers, et serrez generalment sur la voidaunce, &c.⁷

A.D.
1345-6.¹ C., moustrance.² C., and I., la eglise.³ I., ne dona.⁴ The words between brackets are from C. alone.⁵ The replication was, according to the roll, "quod in vigilia Paschæ^{" anno regni Regis nunc tertio-}
^{" decimo Humfridus de Wakefelde}^{" fuit inductus in prædicta vicaria}
^{" de Kynestone, et fuit vicarius}^{" ibidem usque ad undecimum}
^{" diem Junii anno regni ejusdem}^{" Regis nunc quintodecimo, quo}
^{" die idem Humfridus resignavit}
^{" prædictam vicariam ex causa}^{" permutationis facienda inter}
^{" ipsum Humfridum et quandam}
^{" Nicholaum de Lyouns tunc}^{" personam ecclesie de parvo}
^{" Childerle, qui quidem Nicholaus}
^{" fuit vicarius ibidem per tres}^{" annos, et post mortem ejusdem}^{" Nicholai quidam Mauricius de}^{" Ely fuit præsentatus et vicariam}^{" prædictam, qui nunc occupat,}^{" &c. Et sic dicit quod dicta}^{" vicaria vacavit bis tempore quo}^{" dominus Rex habuit jus præ-}
^{" sentandi. Et ea ratione, &c."}^{Issue was joined upon this.}^{⁶ H., and I. A ceste averement}
^{ne serra il resceu, instead of Ceo}^{aver a il.}^{⁷ The verdict was "quod inter}
^{" prædictam vigiliam Paschæ et}
^{" præfatum decimum diem Novem-}
^{" bris prædicta vicaria bis vacavit,}
^{" videlicet, semel per resignati-}
^{" onem prædicti Humfridi de}
^{" Wakefelde, et iterum post}
^{" mortem prædicti Nicholai."}^{Judgment followed for the King}
^{to recover his presentation and}
^{have a writ to the Bishop.}

Nos. 6, 7.

A.D.
1845-6.
Deceit.

(6.) § Deceit against one who had produced a Protection to the delay of a demandant. The defendant produced a Protection, and it was said that it did not lie, because it was the same Protection that had previously been produced, and the object of the present suit was to prove the Protection to be bad and purchased in deceit. And, because the day up to which the Protection was to hold good had not yet arrived, the Protection was allowed.

Quare non admisit.

(7.) § Hugh le Despenser and Elizabeth his wife brought a *Quare non admisit* against the Bishop of Norwich, counting that they had recovered their presentation, and that he would not admit their presentee.—*Moubray*. We tell you that our predecessor,

Nos. 6, 7.

(6.)¹ § Deceite vers un qe avoit mys avant proteccion en delay del demandant. Le defendant myst avant proteccion, et fut parle qe ele ne gist pas, pur ceo qe cest mesme la proteccion qe autrefoith fut mys avant, et issint fut il a prover par ceste suyte la proteccion estre malveys et en deceyte purchace. Et pur ceo qe le jour nest pas unqore encoru a quel la proteccion est a durer si fut ele allowe.

(7.)² § Hugh le Despenser et Elizabeth sa femme³ *Quare non admisit.*
porterent *Quare non admisit* vers Levesqe de Norwytz,⁴ [Fitz.,
countaunt qils avoient recoveri lour presentement, et *Quare non admisit,*
il ne voleit nient resceivre, &c.—*Moubray.* Nous vous 9.]

¹ From the four MSS., as above. “ Roberto tunc et post in Anglia
The case appears to be that found “ commorante, per quod loquela illa
among the *Placita de Banco*, Hil., “ coram eisdem Justiciariis sine die
20 Edw. III., R^o 372, d.:—“ Loquela “ remansit, in Regis contemptum
“ inter Johannem de Meaux, “ manifestum, et deceptionem
“ chivaler, querentem, et Robertum “ Curia Regis prædictæ, ac legis et
“ de Rouclif, de eo quare idem “ consuetudinis prædictarum illu-
“ Johannes nuper implacitasset sionem manifestam, necnon
“ Thomam filium Thomæ de la “ ipsius Johannis dispendium non
“ Ryvere coram Justiciariis hic, modicum, et exhereditationis peri-
“ per breve Regis, de manerio de culum manifestum, remanet sine
“ Gonthorpe, cum pertinentiis, “ die eo quod prædictus Robertus in
“ ac idem Thomas præfatum “ comitiva dilecti et fidelis Regis
“ Robertum et Johannam uxorem “ Johannis de Stryvelyn custodis
“ ejus versus prædictum Johannem “ villæ Regis Berewici super
“ vocaverit ad warantum, &c., ac “ Twedam in obsequio Regis in
“ idem Robertus, ad diem inde inter “ munitione ejusdem villæ mora-
“ eos per Justiciarios hic præ- tur.
“ fixum, Curia Regis ac legi et “ Et habet protectionem domini
“ consuetudini regni regis Angliæ “ Regis duraturam a vicesimo
“ manifeste illudendo, et prosecu- “ nono die Januarii anno regni
“ tionem prædicti Johannis in hac “ domini Regis nunc vicesimo
“ parte prorogare machinando, “ usque Festum Sancti Michaelis
“ quasdam literas regias de pro- “ extunc proxime futurum, præ-
“ tectione continentis ipsum Ro- “ sentibus, &c.”
“ bertum in munitione villæ Regis
“ Berewici tunc extitisse, et ipsum
“ quietum esse de omnibus placitis
“ [&c., in the usual form], porrigi
“ fecit coram Justiciariis hic, ipso

A.D.
1345-6.
Deceit.
[Fitz.,
Protec-
tion, 83.]

² From the four MSS., as above.

³ The words sa femme are from H. alone.

⁴ H., Norwic; C., Norwike.

No. 7.

A.D.
1845-6. during his time, made collation, by reason of lapse of time, to the same church, and so at the time at which the King's writ came to us we found the church full by our predecessor's collation, and we could not, therefore, admit the plaintiff's clerk, and we do not understand that you can assign tort in our person.—*Thorpe*. You shall not be admitted to say that, because we say that heretofore we brought a *Quare impedit* against you and others in respect of the same church, and you then came into Court and said nothing except by way of making your claim as Ordinary, thus accepting our title and our statement that the church was void, as we supposed by our count, and we then had a writ to the Bishop against you, and we demand judgment whether you shall be admitted to allege plenarily in that manner when you previously accepted the reverse as a fact.—*Moubray*. When the *Quare impedit* was brought against us, and we had nothing in the patronage, and had not made any hindrance, we could not by law have pleaded in any other manner than we did: and as to that which you say that your title and the voidance were held as not denied, it is not so, because if twenty persons severally brought a *Quare impedit* against an Ordinary, he would say nothing else to any one of them, whether they had right or not, but would claim merely as Ordinary, and, upon that disclaimer of the patronage, each of them would have a writ to the Bishop, and from that fact it appears clearly that he could not acknowledge each of them to be patron; therefore nothing which was pleaded in the *Quare impedit* or said by us is contrary to that which we now say in order to excuse ourselves.—*Thorpe*. If you were to be now admitted to make

No. 7.

dioms qen temps nostre predecessor par temps passe
 il fist collacion a mesme leglise, et issint au temps
 qe le brief le Roi nous vint nous trovames leglise
 pleine de la collacion nostre predecessor, par quei
 nous ne poames resceivre soun clerk, et nentendoms
 pas qe tort en nostre personne puissetz¹ assigner.²—
Thorpe. A cella dire ne serretz resceu, qar nous
 dioms qe autrefoith nous portames *Quare impedit*
 vers vous et autres de mesme leglise, a quel
 temps vous venistes en Court et rienz ne deistes,
 mes clamastes come Ordeigner,³ acceptant nostre title,
 et⁴ qe leglise fut voide come nous supposames par
 counte, et adonques avioms brief al Evesqe devers
 vous, et demandoms jugement si dallegger la plenerte
 par la manere la revers de quel autrefoith vous
 acceptastes, si vous serretz resceu.—*Moubray.* Quant
 le *Quare impedit* fut porte vers nous, et nous
 navioms rienz en le patronage, ne nulle destourbance
 avioms fait, nous ne poames par ley par autre
 manere aver plede qe nous ne feismes⁵; et quant
 a ceo qe vous ditetz qe vostre title fut tenu nient⁶
 dedit et la voidaunce, il nest pas issi, qar si xx.
 portent severalment⁷ *Quare impedit* vers Ordeigner,³
 a chesqun de eux il ne dirra autre chose, quel
 qilsount⁸ dreit ou nient, mes clamereit come
 Ordeigner,³ et sur cel desclamer en le patronage
 chesqun de eux avera brief al Evesqe, et de ceo
 piert il bien qil ne conust pas chesqun de eux estre
 patroun; par quei rienz⁹ qe fut plede en le *Quare*
impedit ou dit par nous est a contrare¹⁰ de ceo
 qe nous dioms ore pur nous escuser.—*Thorpe.*
 Si vous fuissetz resceu a tiel respons a

A.D.
1345-6.¹ H., and C., puisse.⁶ C., a nient.² C., attacher.⁷ H., generalment.³ H., Ordiner.⁸ H., and C., ussent.⁴ et is omitted from C.⁹ I., nentendoms qe rien.⁵ C., feimes.¹⁰ C., contrare.

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A.D.
1345-6.

such an answer, you would put me to plead my title in the *Quare impedit*, which is not permissible by law, particularly when you were yourself previously a party to the *Quare impedit*, and could then have pleaded or at least have made protestation so as to have saved your plea in the *Quare non admisit*; and since you did not do so you have lost the advantage.—*WILLOUGHBY*, *ad idem*. With regard to a matter of which the Bishop could have had knowledge at the time of the *Quare impedit*, such as plenarty, and which he did not then allege, it is not right that he should afterwards have the advantage of saying the reverse [of what was then said]; and the Ordinary could know as well of plenarty in the time of his predecessor as of plenarty in his own time; but it would be otherwise with regard to bastardy, excommunication, or other disability in the person of the presentee, which are matters that he could not know at the time when the *Quare impedit* was brought; therefore, even though he pleaded nothing as to *Quare impedit* except as Ordinary, he might afterwards, on a *Quare non admisit*, avow the refusal of the presentee by reason of such disability as that, notwithstanding the fact that he did not allege it in the *Quare impedit*; but therefore also it is not right, as it seems, to allege plenarty in this *Quare non admisit*.—*Moubray*. We take your records to witness that they refuse the averment.—*Grene*. If part of the period of six months elapsed in the time of his predecessor, and part in his own time, he will have the same advantage as if the whole period had elapsed in his own time, that is to say, the advantage of giving, as Ordinary, *per lapsus temporis*. Suppose then that the whole period of six months elapsed in the time of this Bishop, and that a *Quare impedit* had been brought against him after he had made collation, and he claimed nothing except as Ordinary, without

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ore,¹ vous moi mettretz de pleder moun title en le *Quare impedit*, qe nest pas suffrable par la ley, nomement quant vous mesmes estoietz partie devant al *Quare impedit*, et adonques le puissetz aver plede ou a meyns aver fait protestacion de vous aver sauve vostre plee en le *Quare non admisit*; et de puis qe vous ne le feistes pas vous avetz perdu lavantage.—*WILBY, ad idem.* Chose de quei Levesqe al *Quare impedit* poait aver eu conissaunce, come plenerte, et nel alleggea pas il² nest pas resoun qil eit lavantage apres a dire le revers; et auxi bien poet Lordeigner³ saver de plenerte en temps de soun predecessor come de soun temps demene; mes autre serreit de bastardie, escomengement, ou autre nounablete a la personne le presente, quele chose il ne poait saver quant le *Quare impedit* fut porte; par quei, tut ne pleda il rienz al *Quare impedit* mes come Ordeigner,³ a un *Quare non admisit* apres il purra avower le refuser par tiel⁴ nounablete, *non obstante* qil nallegea pas en le *Quare impedit*, par quei en cest *Quare non admisit* dallegger plenerte nest pas resoun a ceo qe semble.—*Moubray.* Nous pernoms voz⁵ recordes qils refusent laverement.—*Grene.* Si en temps soun predecessor partie de temps de vj. moys passa,⁶ et partie en soun temps demene, il avera mesme lavantage com si tut le temps fut passe en soun temps demene, saver a doner *per lapsum temporis* come Ordeigner.³ Donques posetz qe tut le temps de vj. moys passa⁶ en temps ceste Evesqe, et *Quare impedit* fut porte vers luy apres ceo qil avoit fait la collacion, et il ne clama riens mes come Ordeiner,³ saunz avowere qil avoit

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1345-6.

¹ The words a ore are from C. alone.

² il is from I. alone.
³ H., Ordiner

⁴ I., title de.

⁵ voz is from C. alone.

⁶ I., fut passe.

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A.D.
1345-6. avowing that he had given by reason of lapse of time, and the plaintiff had had a writ to the Bishop against him, he would not, in a *Quare non admisit*, be able to avow the refusal of the presentee by reason of such plenarty, nor consequently in this case, inasmuch as he could have alleged the plenarty caused by his predecessor's collation as well as by his own.—*STOUPORD, ad idem.* An Ordinary can, on a *Quare impedit*, avow some kind of hindrance which another person cannot, and he can avow some kind of hindrance on a *Quare non admisit* which he could not avow on a *Quare impedit*, as, for instance, disability of the person, as has been previously mentioned: but on a *Quare impedit* he could well avow plenarty through his own collation or that of his predecessor, either of which falls under his notice, and when he has on the *Quare impedit* allowed his time to pass he loses the advantage, as it seems, of alleging it afterwards.—*Moubray.* An Ordinary cannot allege a last presentation, or plenarty, nor can he plead anything to the plaintiff's title in a *Quare impedit*, unless he were to plead it as a disturber; and if our predecessor caused hindrance by collation within the period of six months, of his own wrong, we are not to be punished for that; therefore if you will abide judgment on that, we take the records to witness that you refuse the averment.—*Mutlow.* We tell you that Hugh Giffard, parson imparsonee of the same church, in the time of William de Ermyn, your predecessor, was deprived, &c., which deprivation was affirmed in the Court of Arches, and therefore Giles de Badlesmere, first husband of the plaintiff Elizabeth, presented William Herlyng, who was admitted, &c., on his presentation, which William, as parson imparsonee, continued his estate in the time of your predecessor William, and

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done par temps passé, et le plaintif ust brief al Evesqe vers luy, en *Quare non admisit* il navowereit pas le refuser¹ par tiele plenerte, *nec per consequens* en ceste matere, desicome il posait aver allegge la² plenerte fait par la collacion son predecessor si bien come de luy mesme.—*Stouf. ad idem.* Ordiner a un *Quare impedit* poet avower asqun destourbaunce quel autre personne ne poet pas faire, et asqun destourbaunce poet il avower a un *Quare non admisit* quel il navowereit pas al *Quare impedit*, come nounablete de personne sicome avant ad este parle ; mes plenerte de sa collacion demene ou de soun predecessor, qe chient³ adonques en sa notice avowereit il bien al *Quare impedit*, et, quant il ad sursys soun temps al *Quare impedit* il perde⁴ lavantage, a ceo qe semble, del allegger apres.—*Moubray.* Ordiner ne poet allegger darrein presentement, ne plenerte, ne rienz pleder au title le plaintif en *Quare impedit*, sil ne pledast come destourbour ; et si nostre predecessor fit destourbaunce par collacion deinz le temps de vj. moys, de soun tort, nous ne serroms pas puny ; par quei si vous voilletz⁵ la² demurer nous pernoms voz recordes qe vous refusetz laverement.—*Mutl.* Nous vous dioms qe⁶ Hugh Giffard personne enpersone de mesme leglise, en temps William Dermyn,⁷ vostre predecessor, fuit prive, &c., quele privacion en les Arches fut afferme, par quei G. de Badelesmere,⁸ primer baron Elizabeth qe se plaint, presenta William Herlynge qe a soun presentement fut receu, &c., le quel William, come personne enpersone, continua soun estat en temps de vostre predecessor William, et tut le temps

A.D.
1345-6.

¹ The words le refuser are omitted from I.

⁵ L., voiletz.

² la is from C. alone.

⁶ C., qun.

³ H., cheient; C., chiet.

⁷ H., de Ermyn.

⁴ C., ad perdu.

⁸ L., Bassingbourne.

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A.D.
1345-6.

all the time of your predecessor Anthony, and during your own time, until he resigned, &c., upon which voidance we brought the *Quare impedit*, and recovered; and you have not denied that you received the King's writ to admit our presentee, and you have confessed that you did not admit him; judgment, and we pray our damages, and that you be convicted of contempt.—*Moubray*. We do not admit that this Hugh, of whom you speak, was deprived, and we tell you that, whereas you suppose that during the whole of the time of our predecessor Anthony the church was full of William Herlyng, you shall not be admitted to say that, because you yourself, while you were sole, brought a *Quare impedit*, after the death of your first husband, against A. de B. in the time of our predecessor Anthony. Process was continued until you recovered and had judgment in your favour. And because the period had elapsed you had your double damages. And we demand judgment, since you recovered your presentation to the church as being void, whether you shall be admitted to allege plenarty. And *Moubray* said further, as above, that by reason of the time having elapsed, the Bishop's predecessor Anthony made collation, &c., of whom, &c.—*Grene*. You see plainly how he is a stranger to this record of which he speaks, and he has not denied matter surmised in fact which proves the church to have been full at the time of which he speaks, which fact, if he will traverse it, we shall be ready to maintain. And as to that which he says of the *Quare impedit* brought by us, you see plainly how we are still appearing by guardian, so that we were at that time under age, in which case a supposal made by us that the church was void does not oust us from averring the reverse; and since we have alleged the fact to be otherwise, and he does not maintain the reverse

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Antoine¹ vostre predecessor, et en vostre temps A.D.
demene, tanqe il resigna, &c., sur quel voidaunce
nous portames le *Quare impedit* et recoverimes; et
vous navetz pas dedit qe vous ne resceustes brief
le Roi de receivre nostre presente, et vous avetz
conu qe vous ne luy resceustes pas; jugement, et
prioms noz damages, et qe vous soietz atteint del
contempte.—*Moubray*. Nous ne conissons pas qe
celuy Hughe dout vous parlez fut prive, et vous
dioms qe, la ou vous supposez qe tut le temps
Antoine¹ nostre predecessor leglise fut pleine de
William Herlyng, a cella ne serrez resceu a dire,
qar vous mesmes sole portastes un *Quare impedit*
apres la mort vostre primer baron vers A. de B. en
temps Antoine¹ nostre predecessor. Proces continue
tanqe vous recoveristes et avietz jugement pur vous.
Et pur ceo qe le temps fut passe avietz vos
damages a double. Et demandoms jugement del
houre qe vous recoveristes vostre presentement a
eglise voide si dallegger plenerte serrez vous resceu.
Et dit outre, *ut supra*, qe par cel temps passe A.
soun predecessor fist collacion, &c., de qd, &c.—
Grene. Vous veietz bien coment a cel recorde²
dout il parle il est estrange, et chose surmlys en
fait qe prove leglise estre plein al temps qil parle
il nad pas dedit, le quel fait, sil le voille³ traverser,
nous serroms prest de meyntener. Et a⁴ ceo qil
parle del *Quare impedit* porte par nous, vous veietz
bien coment nous sumes⁵ unquore par gardein, issint
qe adonques nous fumes deinz age, en quel cas
supposaille faite par nous qe leglise fut⁶ voide ne
nous ouste pas daverer le revers; et del houre qe
nous avoms allegge le fait estre autre, et il

¹ C., Antone.⁴ a is from H. alone.² H., acorde.⁵ C., sumus.³ C., voleit.⁶ I., ne fut.

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A.D. 1845-6. by averment, the fact alleged by us must be held to be not denied; and he has not denied the other points of our action; judgment, &c.—*Skipwith*. I know well that a supposal made by an infant under age is not so strong as if he were of full age; but when he prosecutes a matter as far as judgment, and judgment is rendered thereon, he is as strongly bound by that supposal as a man of full age.—*WILLOUGHBY*. Then will you not say anything else? *Grene, ad idem*. Even though she had supposed that the church was void, and had counted in that manner, which she did not do, still if the fact was otherwise, that is to say, that the church was then full, that did not give authority to the Ordinary to give the church; therefore, whereas he does not deny that the fact was otherwise, he shall never have any advantage from such a supposal.—*Rokel*. We tell you that Hugh Giffard, of whom we have spoken, was parson imparsonee in the time of William de Ermyn, our predecessor, as above; and although you speak of his deprivation, as above, we tell you that he sued by Appeal to the Court of Rome, and by virtue of sentence in his favour there rendered he was restored to his possession, and died parson imparsonee; and upon a dispute on the voidance after his death, which William Botevillein and his wife raised, the period [of six months] elapsed, and therefore our predecessor Anthony, as Ordinary, made collation to John de Kelsey, and made induction of him, of which John, at the time of your recovery, the church was full, and still is, *absque hoc* that William Herlyng was parson imparsonee (which we do not admit) of the same church; ready, &c., and we

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meintent pas le revers par averement, il covient qe
 le fait allegge par nous soit tenuz a nient dedit;
 et les autres pointz de nostre accion nad il point
 dedit; jugement, &c.—*Skip.* Jeo say bien qe sup-
 posaille fait par enfaunt¹ deinz age nest pas si fort
 come sil fut de plein age; mes quant il pursuyt
 une chose tanqe au jugement, et jugement sur ceo
 est² rendu, il est lie si fort par cel supposaille come
 homme de plein age.—*WILBY.* Donques ne voillettz³
 autre chose dire?—*Grene, ad diem.* Tut supposa ele⁴
 qe leglise fut voide, et ust counte⁵ par la manere
 come ele ne fist pas, unquore si le fet fut autre,
 saver, qe leglise adonques fut pleine, ceo ne dona pas
 auctorite al ordiner de doner leglise; par quei de
 tiel⁶ supposaille, la ou il ne dedit pas le fet estre
 autre, il navera jammes avantage.—*Rokel.* Nous vous
 dioms qe Hughe Giffard, de qi nous avoms parle,
 en temps William Dermyn,⁷ nostre predecessor, fut
 personne enpersone, *ut supra*⁸; et coment qe vous
 parletz de sa privacion, *ut supra*, nous vous dioms
 qil suist par appelle a la Court de Rome, et par
 sentence illoeges rendu pur luy il fut restitut a sa
 possession, et murust personne enpersone; et sur
 debat de la voidaunce apres sa mort, qe William de
 Botevillein et sa femme firent, le temps passa, par
 quei Antoigne,⁹ nostre predecessor, come Ordiner, fist
 collacion a Johan de Kelsey, et de ceo luy fist
 induccion, de quel Johan, au temps de vostre
 recoverir, leglise fut plein, et unquore est, sanz ceo
 qe William Herlyng fut personne enpersone, [come
 nous ne conissons pas, de mesme leglise]¹⁰; prest, &c.;

¹ The words *par enfaunt* are omitted from C.

⁷ H., Ermyn; C., de Ermyn.

² C., soit.

⁸ The words *ut supra* are omitted from C.

³ H., volez.

⁹ C., Antone.

⁴ L., C., and I., il.

¹⁰ The words between brackets are omitted from C.

⁵ L., C., and I., conu.

⁶ C., cel.

No. 7.

A.D. 1345-6. demand judgment, &c.—*Mutlow*. William Herlyng was parson imparsonee; ready, &c.—*Skipwith*. Even though he was parson imparsonee, which we do not admit, if Hugh Giffard, who was deprived before he became so, had restitution of his estate, and died parson imparsonee, as we have said, which restitution defeated the estate of William Herlyng, that will not prove your proposition, that is to say, the voidance by resignation, for when Hugh had restitution by judgment that defeated every mesne estate, so that William Herlyng never was parson in law.—*Thorpe*. You have pleaded in another manner, that is to say, that William Herlyng never was parson imparsonee, and upon that you have tendered an averment, and therefore you have by your plea given us a traverse, and since you refuse the averment we demand judgment; but it would be otherwise if you had acknowledged such a fact as that of which you speak that William Herlyng was parson, &c., and had shown that his estate was defeated.—And the COURT recorded against the Bishop that he traversed to the effect that this William Herlyng was never parson, and therefore he was asked whether he would accept the averment.—*Skipwith* imparled, and came back into Court, and said that it had never been their intention to traverse in such general terms to the effect that William Herlyng never was parson, but, since the Court recorded it in that manner, he alleged the restitution of Hugh Giffard who was deprived, as above, and said further *absque hoc* that William Herlyng was parson imparsonee, as they had supposed; ready, &c.—And the other side said the contrary.

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[et demandoms jugement, &c.—*Mutl.* William Herlyn fut persone enpersone; prest, &c.]¹ —
Skip. Tut fut il persone enpersone, come nous ne conissons pas, si Hughe Giffard, qe devant luy fut prive, avoit restitucion de soun estat, et murust persone enpersone, come nous avoms dit, quel restitucion defist lestat William Herlyn, ceo ne provera pas vostre purpos, saver la voidaunce par resignement,² qar, quant Hughe fut restitut par jugement, il defist chesqun mene estat, issint qe William Herlyng en ley ne fut unques personne.—*Thorpe.* Vous avetz plede par autre manere, saver, qe William Herlyn³ ne fut unques personne enpersone, et sur ceo avetz tendu un averement, par quei vous nous avetz par vostre plee⁴ done le travers, et del houre qe vous refusetz⁵ laverement nous demandoms jugement; mes autre serreit si vous ussetz conu tiel fait come vous parlez qe W. Herlyn fut persone, &c., et ussetz moustre qe soun estat fut defet, &c.—Et la COURT recorda vers Levesqe qil traversa qe celuy William Herlyn ne fust unques personne, par quei demande luy fut sil voleit laverement.—*Skip.* enparla, et revient, et dit qe ceo ne fut unques lour entencion de traverser si generalment qe William Herlyn ne⁶ fut unques personne, mes puis qe la Court recorda par la manere il⁷ alleggea⁸ restitucion de Hughe Giffard qe fut prive, *ut supra*, et dit outre saunz ceo qe William Herlyn fut persone enpersone come ils avoient suppose; prest, &c.—*Et alii e contra.*

¹ The words between brackets are omitted from C.

² C., soun resignation.

³ Herlyn is from C. alone.

⁴ C., respons.

⁵ C., avietz refuse.

⁶ ne is omitted from C.

⁷ C., ils.

⁸ C., alleggerunt.

A.D.
1345-6.

No. 8.

A.D.
1345-6.
Replevin. (8.) § Replevin against a Prior¹ and one A.¹ The Prior denied the taking. A., as bailiff of the same Prior, made cognisance of the taking on the ground that the same beasts were *levant and couchant* in the vill of A.,² and were driven into the vill of B.,² which two vills do not intercommon, and were taken in a place other than that mentioned in the plaint, and while they were in flight from that place, &c., he overtook them at the place at which it is supposed by the plaint that he took them.—*Skipwith*. He has confessed the taking on behalf of the person who has disavowed it; judgment whether he shall be admitted so to do.—*Blaykeston*. A bailiff shall not be prejudiced by his lord's disavowal.—*Thorpe*. The lord can avow for himself and his bailiff, and after avowry the bailiff will be out of Court; therefore it seems that

¹ For the names see p. 41, note 1. | ² For the names see p. 41, note 5.

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(8.)¹ § *Replegiari* vers un Priour et un A. Le Priour dedit la prise. A., come baillif mesme le Priour, conust la prise par tant qe mesmes les avers furent couchauz² et levauntz en la ville de A., et furent chacetz en la ville de B., queux deux villes^{21.} ne sentrecomunent³ pas, et furent pris en autre lieu, et en defuant cele⁴ lieu, &c., il les atteigna au lieu ou par la pleinte est suppose, &c.⁵—*Skip.* Il ad conu la prise pur⁶ celuy qe lad desavowe; juge-ment sil serra resceu.—*Blaik.* Par desavowere de soun seignur le baillif ne serra pas atteint.—*Thorpe.* Le seignur poet avower pur luy et soun baillif, et apres avowere le baillif serra hors de Court; donqes

¹ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 29 Edw. III., R° 180. It there appears that the action was brought by William Dysny, knight, against the Prior of Royston, Ranulph de Crosseholme, Roger the Priourespynder of Royston, and Thomas Mariot of Ouresby (Owersby) in respect of a taking of 20 oxen, 20 cows, 200 sheep, 40 lambs, and 100 pigs, "in villa de Langouresby in quodam loco qui vocatur Francroft."

² H., and I., cochaunz.

³ C., entrecomunent, instead of sentrecomunent.

⁴ C., tiel.

⁵ According to the record, "Rogerus cognoscit predictam capti-onem, ut ballivus predicti Prioris, dicit enim quod idem Prior est dominus tertiam partis villa de Langouresby, et habet communiam pasturæ in duabus partibus ejusdem villæ, et dicit quod predictus Willelmus Dysny averia sua predicta, quæ fuerunt levantia et cubantia in villa de Kynyardby, fugavit de villa de

A.D. 1345-6.
Replegiari
[Fitz.,
Retourne
des avers.]

" Kynyardby usque ad predictam villam de Langouresby in quodam loco qui vocatur Nettibuske, et ibi cum averiis predictis de-pastus fuit communiam predicti Prioris, attrahendo sibi communiam in predicta villa de Langouresby, ubi predictæ villæ de Kynyardby et Langouresby inter se non communicant, et quia ipse invenit averia predicta in predicto loco de Nettibuske, communiam predicti Prioris depascentia et conculantia, ipse, ut ballivus ipsius Prioris, voluit cepisse ibidem averia predicta, et custodes averiorum illorum fugerunt cum averiis illis de loco illo usque ad predictum locum de Francroft, et ipse recenter prosequendo, ut ballivus predicti Prioris, cepit ibidem averia predicta sicut ei bene licuit, &c. Et predicti Ranulphus et Thomas Mariot venerunt ibidem in auxilium predicti Rogeri ad predictam captionem faciendam."

⁶ C., sur.

No. 8.

A.D. 1845-6. the answer in its entirety is given to the lord; therefore the bailiff cannot justify that which his principal has disavowed; for, if it were otherwise, it would follow that the bailiff would have the return of cattle taken for the use of his principal when his principal has disavowed the taking, and that cannot be.—WILLOUGHBY. That is true; he will not have the return, but he can excuse himself in respect of the damages which it is your object to recover against him.—*Thorpe*. This suit is to be determined with reference to realty, and to that the bailiff cannot be a party without his principal, and his principal can never be made a party by aid-prayer after the disavowal.—*Willoughby*. That is true; he will never have aid of his principal, but still the bailiff will be able to excuse his tort, because after aid has been prayed, in a case in which the bailiff might expect aid, even though the principal should not appear, he will maintain the issue in order to excuse himself with regard to damages; and you will possibly be able to say that he took the beasts *de son tort demene*, and not for the cause assigned.—*Thorpe*. Such an issue might be had on a writ of Trespass, but never on a Replevin.—*Haveryngton*. We tell you that the plaintiff has land in both vills, and is lord of both vills, and by reason of his lands has had common of driving and driving back from one vill into the other, from time whereof there is no memory; and we do not admit that the two vills do not intercommon; judgment whether you can maintain the

No. 8.

semble il qe tut le respons est done au seignur ; A.D.
1345-6.
 par quei le baillif ne poet justifier ceo qe soun
 mestre ad desavowe; qar, si autrement fut, il
 ensuereit qe le baillif avera retourne dun prise al
 oeps soun mestre quel soun mestre mesme ad desavowe,
 et ceo ne poet estre.—*WILBY*. Il est verite¹; il
 navera retourne² mes il se poet excuser mesme des
 damages queles vous estes a recoverir vers luy.—
Thorpe. Ceste suite est a terminer en la realte,³ et
 a ceo le baillif ne poet estre partie saunz soun
 mestre,⁴ et par eide prier soun mestre apres le
 desavowere ne sera jammes fait partie.—*WILBY*. Il
 est verite; il navera pas eide de luy, mes unqore
 le baillif excusera soun tort, qar apres eide prie en
 cas qe baillif avera eide, tut ne vint pas le mestre,
 il meyntendra lissue pur luy excuser des damages;
 et vous poetz dire par cas qil les prist de soun
 tort demene, et noun pas par tiel cause.—*Thorpe*.
 Tiel issue avereit homme en brief de Trans, mes en
Replegiari jammes.—*Hav.* Nous vous dioms qe le
 pleintif ad terre en lune ville et en lautre, et est
 seignur del un ville et del autre, et par resoun de
 ses terres ad eu comune chace et rechace del un
 ville en lautre, de temps dount memore nest; et ne
 conissons pas qe les deux villes ne sentrecomunent
 pas; jugement si lavowere poetz⁵ meyntener.⁶—Et

¹ The words il est verite are omitted from C.

² C., Retourne navera il pas, instead of il navera retourne.

³ H., rialte.

⁴ C., seignur.

⁵ C., puissetz.

⁶ The plea was, according to the record, "Willelmus Dysny dicit quod predictus Rogerus captionem predictam justam cognoscere non potest, dicit enim quod ipse est dominus medietatis villæ de

" Kynyardby, et etiam quod ipse est dominus tertie partis predictæ villæ de Langouresby, et habet in utraque villa dominicas terras suas, ad quas communia pertinent, et dicit quod ipse habet chaceam et rechaceam cum omnibus averiis tam per ipsum agistatis quam averiis suis propriis et hominum suorum a predicta villa de Kynyardby usque ad predictam villam de Langouresby, et quod ipse et omnes

Nos. 9, 10.

A.D.
1345-6 avowry.—And they were at a traverse on the custom.—And the bailiff was by judgment ousted from having aid of his principal, because his principal had disavowed the taking, and could have been a party if he had wished, and if he had afterwards been made party by aid-prayer, that would have been to give him the advantage of having the return of the beasts which he had lost by the disavowal, as is touched above.

Præcipe. (9.) § A *Præcipe* was brought in Cambridge. The tenant was essoined.—*Thorpe*, for the bailiff of the liberty, alleged that part of the tenements demanded was within the liberty, and part without, and prayed the advantage of the liberty with regard to the former part. And he said farther that the writ was abatable, and prayed further, on behalf of the bailiff, that his statement might be entered, because otherwise he would lose the advantage on a subsequent occasion.—*WILLOUGHBY*. You will not do so; you can well allege that when he appears.—*Grene*. Even if the tenant were here, and would allege it, the writ would be good enough, &c.

Avowry. (10.) § Avowry on a Prior, on the ground that he

Nos. 9, 10.

sur lusage furent a travers.¹ Et le baillif par agarde fut ouste del eide de soun mestre, pur ceo qil ad desavowe la prise, et poait avoir este partie sil voleit, et, si par eide prier il fut fait partie, serrait de luy doner lavantage daver retourn quel par le desavowere il ad perdu, *ut supra tangitur*.²

A.D.
1345-6.

(9.)³ § *Præcipe* porte en Cauntebrige.⁵ Le tenant *Præcipe*.⁴ fut essone.—*Thorpe*, pur le baillif de la fraunchise, alleggea qe parcelle des tenementz demandetz fut⁶ en la fraunchise, et parcelle de hors, et pria lavauntage⁷ de la parcelle, &c. Et dit outre qe le brief fut abatable, et pria autre pur luy qe soun dit fut entre, qar autrement il perdra lavauntage autrefoith.—*WILBY*. Noun ferrez; vous laleggeretz bien quant il vendra.—*Grene*. Tut fut le⁸ tenant cy, et il laleggereit, le brief serreit assetz bon, &c.

(10.)⁹ § *Avowere* sur un Priour, pur ceo qil *Avowere*.[Fitz.,
Avowere,

“ antecessoressi, et omnes tenentes
“ tementorum prædictorum, a tem-
“ pore quo non extat memoria,
“ habuerunt chaceam et rechaceam
“ in forma prædicta, et dicit quod
“ ipse prædictis die et anno
“ fugavit averia sua prædicta a
“ prædicta villa de Kynyardby
“ usque ad prædictum locum de
“ Francroft, et ibi depastus fuit
“ communiam suam sicut ei licuit.
“ Et hoc paratus est verificare
“ unde petit judicium.”

1 According to the record issue was joined on the following replication:—“ Rogerus dicit quod prædictus Willelmus et antecessores sui et alii tenentes terras et tene-
“ menta sua prædicta non habue-
“ runt chaceam et rechaceam a
“ prædicta villa de Kynyardbi usque
“ ad prædictam villam de Langou-
“ resby a tempore quo non extat

“ memoria, sicut prædictus Willel. 123.]

“ mus Dysny superius asserit.”

3 The award of the *Venire* appears upon the roll, but nothing beyond, and nothing about the aid-prayer.

4 From the four MSS., as above.

5 The marginal note is from H. alone.

6 L., la Chauncellerie; C., Chauncerie.

7 C., furent.

8 C., la franchise.

9 C., il.

From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 65. It there appears that the action was brought by the Prior “de Novo Loco juxta Guldeforde” (of Newark, or New Place) against Richard de Wyndesore and others in respect of a taking of 10 oxen, 5 horses and 175 sheep.

No. 10.

A.D. held of the defendant by homage, fealty, &c., and
1845-6. heriot. And the defendant avowed for the homage
and the fealty in arrear, to wit, so many beasts for
the homage and so many for the fealty.—*Pole.* We
tell you that before the taking was effected we
tendered to you our homage at such a place, and
have always been ready, and still are, to do homage;

No. 10.

tient del defendant¹ par homage feaute,² &c., et heriete.
 Et pur lomage et la feaute³ arrere il avowa, saver,
 tauntz des bestes pur lomage, et tauntz pur la feaute.³
 —Pole. Nous vous dioms qe avant la prise fait nous
 vous tendimes nostre homage a tiel lieu, et tut temps
 avoms este prest, et unquore sumes; jugement, &c.⁴—

A.D.
1345-6.¹ MSS. of Y.B., plentif.² H., foialte.

³ foialte. The avowry was, according to the record, on behalf of Richard and the others, "quod prædictus Prior tenet de eo manerium de Westbedefunte in Stanewelle, cum pertinentiis, per servitium unius feodi militis, videlicet, per homagium, fidelitatem, et ad scutagium domini Regis quadraginta solidos, et ad plus plus, &c., et ad minus minus, &c., et per servitium sex solidorum et octo denariorum solvendum qualibet vicesima quarta septimana pro warda Castri de Wyndesore, et faciendi relevium post quamlibet vacationem Prioratus prædicti, sive per mortem Prioris, &c., vacaverit, seu cessionem, vel aliquo alio modo, videlicet centum solidos pro relevio, &c., et pro herietto post mortem vel cessione, cuiuslibet Prioris Prioratus prædicti melius animal, &c., de quibus quidem sevitii quidam Ricardus de Wyndesore, pater prædicti Ricardi, cuius heres ipse est, fuit seisisus per manus Walteri quondam Prioris, &c., prædecessoris, &c., ut per manus veri tenantis, &c., videlicet de prædictis homagio et fidelitate, &c., ut de feodo, &c., et de aliis servitiis in dominico suo ut de feodo et jura. Et quia homa-

" gium et fidelitas prædicti Prioris
 " qui nunc, &c., et etiam prædictus
 " redditus per tres terminos, &c.,
 " et etiam centum solidi post
 " cessionem Rogeri nuper Prioris
 " &c., prædecessoris, &c., pro
 " relevio, &c., et melius animal
 " pro herietto, &c., eidem Ricardo
 " aretro fuerunt ante diem capti-
 " onis, &c., cepit ipse boves et
 " equos prædictos pro homagio
 " ipsius Prioris qui nunc, &c., et
 " etiam pro fidelitate ejusdem
 " Prioris eidem Ricardo a retro
 " existente cepit ipse bidentes
 " prædictos sicut ei bene licuit,
 " &c."

⁴ The plea was, according to the record, "(non cognoscendo seismnam prædicti Ricardi patris ipsius Ricardi de Wyndesore de servitiis prædictis de manorio prædicto, nec quod manerium illud teneatur de ipso Ricardo de Wyndesore per relevium et herietum, sed protestando se semper velle verificare contrarium, si ad hoc admitti debeat) dicit quod manerium illud tenetur de ipso Ricardo per homagium, fidelitatem, et ad scutagium domini Regis quadraginta solidorum cum acciderit quadraginta solidos, et servitium sex solidorum et octo denariorum solvendum qualibet vicesima quarta septimana pro warda Castri de Wyndesore pro omnibus servitiis tantum. Et dicit quod idem Ricardus de

No. 10.

A.D.
1345-6. judgment, &c.—*Richemunde*. You shall not be admitted to say that you have always been ready, for we demanded the homage at such a place, and you refused to do it; and, moreover, the plaintiff appears in Court by attorney, so that he cannot now say that he has been always ready to do homage; it is not an answer.—*HILLARY*. Then is it the fact that he tendered his homage to you before the taking of the beasts?—*Thorpe*. It is not an answer to say that he tendered his homage without saying that he was always ready.—*SHARSHULLE*. If you will admit that at one time he tendered you his homage, and you refused it, and will say that after that time you demanded his homage and he refused it, and that before the day of the taking, whereby a new cause of distress accrued to you, you can well do so.—*Richemunde*. He did not tender before the taking; ready, &c.—And the other side said the contrary.

No. 10.

Rich. A dire qe tut temps aviez este prest ne serretz resceu, qar nous le demandames a tiel lieu, et vous le viastes¹ de fere; et unqore le plaintif² est par attourne en Court, issint qil ne poet ore³ dire qe tut temps fut prest; il nest pas respons. [—HILL. Dounques est il issint qil vous tendist soun homage avant la prise?—THORPE. A dire qil tendy soun homage saunz dire qe tut temps prest il nest pas respons,] ^{A.D. 1345-6.} et nous avons prove par nostre plee qil ne fut pas tut temps prest.—SCHAR. Si vous voletz conustre⁵ qe a un temps il vous tendi soun homage, et vous le refusastes, et puis cel temps vous le⁶ demandastes soun homage et il refusa, et ceo devant le⁶ jour de la prise, par quei novel cause de destresse vous acrust, vous le poietz bien faire.—*Rich.* Il ne tendist pas avant la prise; prest, &c.⁷—*Et alii e contra.*

“ Wyndesore captionem illam pro
“ homagio et fidelitate sua justam
“ advocare non potest, dicit enim
“ quod ipse modo ante diem
“ captionis, &c., et similiter post,
“ paratus est et fuit ei facere
“ homagium suum et fidelitatem.
“ Et dicit quod ipse, diu ante diem
“ captionis, videlicet die Lunæ
“ proxima post Festum Sancti
“ Jacobi Apostoli anno regni
“ domini Regis nunc Anglie decimo
“ octavo apud Guldeforde in Comi-
“ tatu Surrei obtulit eidem
“ Ricardo de Wyndesore homagium
“ suum et fidelitatem pro manorio
“ praedicto. Et hoc paratus est
“ verificare, &c., unde petit judi-
“ cium et damna sibi adjudicari,
“ &c.”

¹ H., I., and C., weyvastes.

² MSS. of Y.B., defendant.

³ ore is omitted from C.

⁴ The words between brackets are omitted from C.

⁵ L., and C., moustrer.

⁶ le is omitted from C.

⁷ The replication was, according to the record, “ Ricardus (non cognoscendo praedictum Priorem tenere de eo manerium praedictum per minora servitia quam ipse superius advocavit) dicit quod ipse ab advocate suo praedicto per hoc excludi non debet, quia dicit quod praedictus Prior praedicto die Lunæ apud Guldeforde non obtulit ei homagium suum nec fidelitatem prout ipse superius allegavit.” Issue was joined upon this.

The verdict was “ quod praedictus Prior obtulit praedicto Ricardo homagium et fidelitatem suam ante praefatum diem captionis praedictæ, sicut idem Prior superius allegavit. Et dicunt quod idem Prior sustinuit damna occasione detentionis averiorum praedictorum ad valentiam sexa-

Nos. 11, 12.

A.D.
1345-6.
Note. (11.) § Note that an heir female demanded on the seisin of her ancestor, and the existence of issue of her brother still living was alleged in bar of the action.—*Richemunde*. There is no such person living; ready, &c.—*Grene*. He is living at such a place in such a county; ready, &c.—And the other side said the contrary.—And the issue was accepted gratis, &c.

Avowry. (12.)¹ § Avowry on a Prior who was plaintiff on the ground that his predecessor held of the avowant's ancestor by the services of one knight's fee, and that, on a dispute between them concerning the services, the Prior, with the consent of his Convent, granted, for himself and his successors, by his deed, that they would hold of the avowant's ancestor and his heirs by the same services, and, in addition to them, by the service of paying 100 shillings for a relief after the death, cession, or any other voidance of every Prior. And the avowant alleged the seisin of the services and of the relief after the death of two Priors, &c. And because the relief after the death of the last Prior was in arrear he avowed.—*Grene*. He has founded his avowry on two different titles, one the deed of our predecessor, the other as for rent service; judgment of the avowry, for, even though we would deny the deed, that would not make an issue, because the tenancy together with the seisin alleged, &c., would be a sufficiently good title.—*WILLOUGHBY*. He cannot have any other avowry on such facts.—*Grene*. Moreover, we cannot know whether he avows for rent service or rent charge.—*WILLOUGHBY*. Yes, you can; he avows upon you as upon his very tenant, and without a specialty he will never be able to avow for a relief upon a

¹ This is a second report or continuation of Y.B., Mich., 19 Edw. III. No. 44. pp 394-398 (Robert, Prior of Christchurch, v. Robert Fitz Payn and another). The record (Mich., 19 Edw. III . R^o 414, d.) is there cited.

Nos. 11, 12.

(11.)¹ § *Nota* qe heir femele² demanda de seisine auncestrele, et lestre lissue soun frere fut allegge en plein vie en barre daccion.—*Rich.* Il ny ad nul tiel en plein vie; prest, &c.—*Grene.* Il est en plein vie a tiel lieu en tiel counte³; prest, &c.—*Et alii e contra.*—Et lissue resceu gratis, &c.

(12.)¹ § Avowere sur Priour pleintif par la resoun Avowere. qe soun predecessor tient del auncestre lavowant [Fitz.,
par les services dun fee de chivaler, et sur debat 124.]
des services entre eux le Priour, del assent soun Covent, graunta, pur luy et ces successors, par soun fait, a tener de luy et de ses heirs par mesmes les services, et, estre cella, de faire⁴ c. s. pur relief apres la mort, cessioun, ou qecunq[ue] autre⁵ voidaunce de chesq[ui]n⁶ Priour. Et lia seisine des services et del relief apres la mort de deux Priours, &c. Et pur ceo qe le relief apres la mort le darrein Priour fut arrere il avowa.—*Grene.* Il ad foundu savowere sur deux titles, un par le fet nostre predecessor, autre come de rente service; jugement del avowere, qar, tut vodroms dedire le fet, ceo ne fra⁷ pas issue, pur ceo qe la tenance ove la⁸ seisine lie, &c., serreit assetz suffisaunt title.⁹—*WILBY.* Il ne poet autre avowere aver sur tiel fet.—*Grene.* Et nous ne poms saver le quel il avowe pur rente service ou rente charge.—*WILBY.* Si poietz; il avowe sur vous come sur soun verrei tenant, et saunz especialte sur homme de

“ginta librarum.”

Judgment was thereupon given for the Prior to recover the damages, and he had execution by *elegit*.

“Postea dominus Rex mandavit
“Johanni de Stonore, Justiciariorum,
“&c., per breve suum quod mitteret
“prædicta recordum et processum
“coram ipso Rege in Cancellaria.
“Et mittuntur per J. de Aultone,
“&c.”

¹ From the four MSS., as above.

² C., femelle.

³ C., countee.

⁴ The words de faire are from H. alone.

⁵ autre is omitted from C.

⁶ C., chesq[ui]n.

⁷ C., fut; I., fust.

⁸ C., sa.

⁹ title is omitted from C.

A.D.
1345-6.
Nota.

No. 18.

A.D. 1345-6. person of religion; therefore answer.—*Grene*. You see plainly how he avows in virtue of a specialty in which there is no clause of distress; judgment of the avowry.—This exception was not allowed.

Trespass. (13.) § An Abbot¹ brought a writ of Trespass in respect of trees cut.—*Skipwith*. We tell you that your predecessor, by this deed, leased to us² the manor of B.,³ with the appurtenances, of which manor the wood in which, &c., is parcel, for term of our life, and so it is our freehold; judgment whether such a writ lies against us.—

¹ For the names *see* p. 53, note 4. | ² For the names, &c., *see* p. 53, note 7.

No. 18.

religioun ja¹ navowera² pas pur relief; par qui A.D.
responez.—*Grene*. Vous veietz bien coment il avowe
par force dune especialte en quel il ny ad nule
clause de destresse; jugement del avowere.—*Non
allocatur*.³

1345-6.

(13.)⁴ § Un Abbe porta brief de Trans des arbres Trans-
copes.⁵—*Skip*. Nous vous dioms qe vostre predeces-
sour, par ceo fait, nous lessa le maner de B. ove les
appurtenances,⁶ de quel le boys ou, &c., est parcele,
a terme de nostre vie, et issi est ceo nostre franc
tenement; jugement si tiel brief vers nous gise.⁷—

¹ C., il.² H., and I., navendra.³ In C. alone there is a reference
to the report in the previous
Michaelmas term.⁴ From the four MSS., as above,
but corrected by the record *Placita
de Banco*, Hil., 20 Edw. III.,
R^o 157, d. It there appears that
the action was brought by the
Abbot of Vaudrey ("de valle Dei")
against Stephen Cosyn and John his
son.⁵ C., coupes. The declaration
was, according to the record, "quod
prædicti Stephanus et Johannes
abatis, videlicet, centum et
sexaginta quercus, et centum et
sexaginta fraxinos, apud Birtone
nuper crescentes succi-
derunt et asportaverunt."⁶ C., appurtinances.⁷ The plea was, according to the
record, "quod quidam Abbas de
valle Dei, prædecessor istius
abatis, et ejusdem loci Con-
ventusconcesserunt et dimiserunt
eidem [Stephano] et cuidam
Johanni fratri suo jam defuncto
manerium de Birtone, cum
pertinentiis, per nomen grangie

"sus de Birtone juxta Corby, cum
"omnibus terris arrabilibus, pratis,
"pasquis, et pasturis separabilibus,
"et omnibus aliis commoditatibus
"viis, semitis, marleis, warennis,
"chaceis, cum libero ingressu et
"egressu ad omnia supradicta, et
"cum omnibus aliis juribus et
"commoditatibus ad eandem gran-
"giam aliquo modo spectantibus,
"habendum et tenendum præfatis
"Stephano et Johanni fratri suo
"ad totam vitam suam, et alteri
"eorum qui supervixerit, per quam
"dimissionem iidem Stephanus et
"Johannes frater ejus fuerunt
"seisis de manorio predicto, et
"idem Stephanus adhuc seisis
"est de eodem manorio, cum
"omnibus juribus suis et perti-
"nentiis, ut de libero tenemento
"suo. Et profert hic in Curia
"quoddam scriptum indentatum
"sub nomine prædicatorum. Ab-
"batis prædecessoris, &c., et
"Conventus, quod dimissionem
"prædictam testatur in forma
"prædicta. Et petit judicium si
"prædictus Abbas nunc per breve
"istud de Transgressione actionem
"versus eum habere debeat, &c."

No. 14.

A.D.
1345-6. *Moubray* would have averred that they were his trees, &c.—And he was not allowed to do so.—Therefore he said that the Abbot's predecessor died seised of the same manor, after whose death the Abbot found his church seised, and so it is his freehold.—*Skipwith*. Inasmuch as you do not deny the lease made by your predecessor, as above, you shall not be admitted to say that he died seised without showing how.—And this exception was not allowed.—Therefore *Skipwith* said that by virtue of the conveyance the defendant continued his estate, *absque hoc* that the predecessor died seised, and so it is the defendant's freehold ; ready, &c.—*Moubray*. Our predecessor died seised, and so it is our freehold ; ready, &c.—And the other side said the contrary.

Continua- (14.)¹ § *Notton*. They have said that the
tion.

¹ This report is in continuation of Y.B., Easter, 16 Edw. III., No. 31, and Trin., 16 Edw. III., No. 57. The case was one of *Scire facias* on

Fine brought by Thomas, son and heir of Peter de Breuse or Braose, against John son and heir of John de Moubray, and others.

No. 14.

Moubray voleit aver avere qe ses arbres, &c.—*Et non potuit*.—Par quei il dit qe soun predecessor murust seisi de mesme le maner, apres qi mort il trova sa eglise seisi, et issi est ceo soun franc tenement.¹—*Skip*. Desicome vous ne deditetz pas le lees fet par vostre predecessor, *ut supra*, a dire qil murust² seisi saunz moustrer coment vous ne serrez pas resceu.—*Et non allocatur*.—Par quei il dit qe par force du lees il continua soun estat, saunz ceo qe le predecessor murust³ seisi, et issi soun franc tenement; prest, &c.⁴—*Moubray*. Nostre predecessor murust² seisi, et issint nostre franc tenement; prest, &c.—*Et alii e contra*.⁵

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1345-6.(14.)⁶ § *Nottone*. Ils ouint parle qe le Roi nient *Residuum*.⁷

¹ The replication was, according to the record, “Abbas. non cognoscendo quod praedicti Stephanus et Johannes frater ejus unquam aliquid habuerunt in manerio praedicto virtute dimissionis praedictae, dicit quod locus ubi ipse supponit praedictam successionem fieri est quidam boscos qui vocatur Northwode, et dicit quod quidam Willelmus quondam Abbas, &c., ultimus predecessor suus, fuit seisisitus de bosco illo ut de jure ecclesiae sue beatæ Mariæ de valle Dei et inde obiit seisisitus et quod ipse, post mortem ipsius Abbatis, invenit ecclesiam suam praedictam seisisitam de bosco praedicto, et quod ipse adhuc inde seisisitus est ut de jure ecclesiae sue praedictæ. Et hoc paratus est verificare. Et petit judicium si praedicti Stephanus et Johannes de transgressione praedicta se excusare possint, &c.”

² C., muruyst.³ *Et* is omitted from C.⁴ The rejoinder was, according to the record, “quod ipse Stephanus

“ et Johannes frater ejus, virtute dimissionis praedictæ, de praedicto manerio de Birtone, cum pertinentiis, et etiam de praedicto bosco, ut de parcella manerii illius seisisiti fuerunt, et quod ipse Stephanus adhuc de praedicto manerio, et etiam de praedicto bosco, ut de parcella ejusdem manerii, seisisitus est ut de libero tenemento suo, absque hoc quod predictus Abbas inde seisisitus est ut de libero tenemento, sicut idem Abbas superius asserit.” It was upon this rejoinder that issue was joined.

⁵ The words *Et alii e contra* are from C. alone. The award of the *Venire* appears on the roll, but nothing further.

⁶ From the four MSS., as above. The record is among the *Placita de Banco*, Easter, 16 Edw. III. R^o 328, and is printed in Appendix C. to the volume of Year Books including that term, pp. 293-308.

⁷ The marginal note in L. is Proces.

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1345-6. King was unwilling that the barony¹ should be dismembered, of which barony the tenements in respect of which we demand execution are parcel, and also that the King ordained, after submission of the parties to his ordinance, that these lands were to remain in the possession of William son of William de Breuse, and that he, their ancestor, should make over other lands of the same value to the person who was party to the fine, &c.; and they show nothing of the King's ordinance, nor of the submission, which matters fall to be proved by record and specialty, but the indenture which they produce in order to prevent execution supposes an agreement to have been made between the parties on the intervention of friends, and therefore they cannot take advantage of it. But whereas they say that Richard de Breuse took certain manors in exchange and to the same value, to hold to him and the heirs of his body begotten, and, if he should die without such heirs, to Peter, Thomas's ancestor, and the heirs of his body, whose heir Thomas is, supposing the limitation thereby to have been in the same manner as that of the tenements in respect of which we demand execution, and alleging that, in consideration of that taking of an estate to the value, &c., Richard de Breuse released all his right in the tenements by the deed of which they have made *profert* to William their ancestor, of which tenements we demand execution, and alleging that Peter our ancestor put his seal to that release, and they have conveyed the same tenements to Thomas, the present defendant, by virtue of the exchange, and have demanded judgment whether contrary to the exchange, in virtue of which he is seised of other lands, he ought to have execution. And in answer to that we have said and shown, as to all the manors except the manor of

¹ Of Bramber. See Y.B., Easter, 16 Edw. III., Part. I. Appendix C.

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voillaunt la baronie estre demembre, dount les tenementz sount parcele de quei nous demandoms execucion, et auxint qe par submissiou des parties le Roi ordeyna¹ qe ceux² terres duissent demurer, &c., et qe lour auncestre freit autres terres en value a celuy qe fut³ partie a la fyne, &c.; et de lordinance le Roi ne la submissiou, quel chose chiet en recorde et en especialte, de ceo ils ne moustrent riens, mes lendenture quele ils mettent avant pour destourber execucion suppose un acorde estre fait entre les parties par amys entrevenantz, par quei de ceo ne pount ils prendre⁴ avantage. Mes la ou ils dient qe Richard Brewes prist certainz maners en eschaunge et en value⁵ a luy et a les heirs de soun corps engendrez, et sil deviast, &c., a Piers et les heirs de soun corps, &c., auncestre Thomas, qe heir il est, supposant qe ceo fut taille par mesme la manere come les tenementz dount nous demandoms execucion, et pur cele prise destat en value, &c., Richard Brewes dust aver relese tut son dreit par le fet quel ils ount mys avant a William lour auncestre en les tenementz. dount nous demandoms execucion et a cel reles Piers nostre auncestre duist aver mys soun seal, et ount conveie mesmes les tenementz en Thomas qore demande par force deschaunge,⁶ et ount demande jugement si encountre leschaunge⁷ dount il est seisi deive execucion avoir. Et a cella avoms nous dit et moustre, quant a toux les maners forpris le maner de Tuttebury,

¹ H., ordina; C., ordeigna.² C., celest.³ C., qest, instead of qe fut.⁴ C., perdre.⁵ The words et en value are omitted from I.⁶ C., des eschaunges.⁷ C., les eschaunges.

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A.D. 1845-6. Tetbury, that we hold by virtue of other fines and not to the value, as above. And, as to the manor of Tetbury, we have shown that William de Breuse, ancestor of John de Mowbray, granted and confirmed that manor to Peter our father and to one Agnes, whom he was about to take to wife, to have and to hold to them and to the heirs of their bodies issuing, by force of which confirmation they were seised. And Agnes survived and died seised, and Thomas is in possession after her death, claiming in virtue of that second limitation, and not in virtue of the exchange as above, so that even though that be accounted an exchange to the value in lieu of the land exchanged (which it cannot be because an estate of such a nature as exchange requires cannot be taken by release), still, because Thomas is in possession of an estate different from that which was taken by Richard de Breuse, he would have an action, and therefore we have demanded judgment, and again do so, and we pray execution.—WILLOUGHBY. There are two points here—one that this cannot be an exchange—the other that, even though it were an exchange, your estate is different from that by exchange; therefore address yourself first to the one point—whether it can be said to be an exchange.—Notton. Exchanges are of such a nature that they must be equal, and that each must be a warrant for the other, and there must be transmutation of possession on both sides; but by a release, by which no right was vested, there could not be a limitation, and it is not proved that by that release any right vested or passed, for possibly the person who released had not any right, or possibly the person to whom

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qe nous tenoms par force dautres¹ fynes, et noun pas en value, *ut supra*. Et quant au maner de Tuttebery nous avoms moustre² qe William Brewes, auncestre Johan Moubray, granta et conferma cel maner a Piers nostre pierre et a une Agneys quel il fut a prendre a femme, a aver et tener a eux et les heirs de lour corps issauntz, par quel con ferment ils furent seisiz. Et Agneys survesqui³ et murust⁴ seisi,⁵ apres qi mort Thomas est einz en clamant par celle secounde taille, et rienz par force deschaunge⁶ *ut supra*, issint⁷ qe tut purreit il estre acompte⁸ eschaunge en value en lieu deschaunge,⁶ come il ne poet estre, qar par relees homme ne poet estat prendre come nature deschaunge demande, unquore, pur ceo qe Thomas est einz d'autre estat qe ne fut pris par Richard Brewes, il avereit accion, par quei nous avoms demande juge ment, et unqore fesoms, et prioms execucion.—WILBY. Cy⁹ sount deux pointz, un qe ceo ne poet estre eschaunge, autre tut fut il eschaunge vostre estat est autre qe par leschaunge¹⁰; par quei parletz primes al un point, sils purront estre dit eschaunges.—NOTTONE. Eschaunges sount de tiel nature qils serrount owels, et chesqun garrant autre, et covient dune part et d'autre aver transmutacion de possessioun; mes par relees, par quel nul dreit fut vestu, ne¹¹ poait estre taille, ne par quel relees nest pas prove qe dreit vesti¹² ou passa, qar par cas celuy qe relessa nul dreit navoit, ou par cas

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345-6.¹ C., des autres.² The words nous avoms moustre are omitted from H. and I.³ C., survesquit.⁴ C., muryst.⁵ seisi is omitted from C.⁶ C., des eschaunges.⁷ C., et issint.⁸ All the MSS., except C., accepte.⁹ C., Si.¹⁰ C., les eschaunges.¹¹ C., ne ne.¹² vesti is omitted from C.

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1845-6. the release was made was not seised, and so possibly the release was entirely void and can never be called an exchange, and such a release can never savour of the nature of an exchange.—*HILLARY*. As to exchanges, they need not be of equal value: for an acre of land can be exchanged for twenty librates of land, and if, after exchanges made, one releases warranty to another, the exchanges are not thereby defeated.—*Skipwith, ad idem*. No one concludes the matter completely by exchange unless because he has something else to the value, &c.; and whereas it has been said that where there is exchange there must be transmutation of possession on both sides, that is not so, for, if you have a rent in my land and I give you certain tenements for the release of the same rent, that is of the nature of an exchange, and yet there is no transmutation of possession except on one side; and in this matter also it is clearly shown that the person who released had right to the same tenements by virtue of the same fine of which they now demand execution, and by his release he extinguished that right which he could have had by execution, and in consideration of that release he took other lands, and that will be accounted as being to the same effect as an exchange.—*Grene*. If tenant in tail is disseised and releases his right, and in consideration of that release takes other land to hold to him and his heirs for ever, even though it so happens that his issue enters upon the same lands taken in that manner, he will, nevertheless, have an action of Formedon in respect of the land entailed, because his demand will be in virtue of the gift which is a title different from that derived through his ancestor; and if my father, being tenant by the

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celuy a q̄ il fut fait ne fut pas seisi, et issi par cas le relees tut voide ne poet jammes eschaunge estre dit, ne q̄e tiel relees purra savourer nature deschaunge.¹—HILL. En eschaunges il besoigne² pas q̄ils soient³ dowele value; qar homme poet chaunger un acre de terre ove xx. liveretz⁴ de terre, et si apres les eschaunges⁵ lun relest la garrantie al autre les eschaunges⁵ par taunt ne sount pas defetes.—*Skip., ad idem.* Homme conclude mye tut sur eschaunge, mes pur ceo qil ad autre chose en value, &c.; et ou est parle qen eschaunge il bosoigne² destre transmutacion de possession dune part et d'autre, il nest pas issi, qar si vous eietz un rente en ma terre et jeo vous dounne certainz tenementz pur relesser mesme la rente cest nature deschaunge, et⁶ si ny ad il mye transmutacion de possession forqe del une partie; et auxi en ceste matere il est bien moustre qe celuy qe relesa il avoit dreit par force de mesme la fyne dount ils demandent ore execucion a mesmes les tenementz, et par soun relees il esteigna cel dreit quel il pureit aver eu par lexecucion, et pur cel relees il prist autres terres ceo serra accompte a mesme leffect come eschaunge.—*Grene.* Si tenant en taille soit disseisi, et relest soun dreit, et pur cele relees preigne autre terre a luy et ses heirs a touz jours, tut soit il issi qe soun issue entre en mesmes les terres pris en la manere, unquore il avera accion de⁷ Fourme de doun a la terre taille, pur ceo qil demande par force de doun quest autre title qe par my soun auncestre; et si moun pere tenant par la ley Dengleterre aliene

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1345-6.¹ C., des eschaunges.² C., busoigne.³ All the MSS., except C., nient destre, instead of pas q̄ils soient.⁴ C. is the only MS. which gives the word in full.⁵ All the MSS., except C., leschaunge.⁶ et is from C. alone.⁷ C., par.

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1345-6. courtesy of England, alienes my mother's inheritance, or releases his right which is only for his own time, and takes land to hold to himself and his heirs for ever in consideration of that release, and I am seised of that land after his death through him, I shall, nevertheless, have an action of Mort d'Ancestor in respect of my mother's seisin; so also in this matter, even though the person who was party to the fine released, and took land in consideration of making that release, yet, even though I were seised of that land as his heir, since I claim nothing through him in this suit except by force of a remainder as a purchaser who is a stranger, I shall not be barred by law; and also, even though the remainder was by the agreement limited after the death of Richard, if he should die without issue, to Peter and the heirs of his body begotten, nevertheless, since, after Richard's death, William Breuse, with whom the fee simple remained, granted and confirmed to Peter and one Agnes, whom Peter was to take to wife, and to the heirs of their bodies, and the wife had and held after the death of her husband by such colour, and Thomas has entered after her death, as son and heir, Thomas's estate will be adjudged to be for his advantage rather by the second limitation than by the first, and consequently, even though this was an exchange, since he is in possession of an estate other than by virtue of this agreement, he will not be barred.—*Thorpe.* We have asserted a continuance of estate in Peter, for we have said that Peter entered after the death of Richard, and continued that estate, and it is impossible that the wife who had nothing could take an estate by confirmation made to herself and her husband; and, inasmuch as you have not denied the continuance of estate in Peter, for you do not allege a divesting or a taking back of an estate other than that which we have admitted him to have had, you

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leritage ma mere, ou relest soun dreit qe nest forqe pur soun temps, et prent terre a luy et a ces heirs a touz jours¹ pur cel relees, de quel terre jeo su seisi apres sa mort par my luy, unqore javeray accion de² Mort dauncestre de la seisine ma mere; auxi de ceste part, tut relessa celuy qe fut partie a la fyne, et prist terre pur cel relees faire, tut fusse jeo seisi de cele terre come soun heir, del houre qe jeo cleyme rienz de luy en ceste suite mes par force dun remeindre come estraunge purchaceour, par ley jeo ne serra³ pas barre; et auxint tut fut le remeindre par la composition taille, apres la mort Richard, sil deviast saunz issue, a Piers et les heirs de soun corps engendrez, nepurqant, quant, apres la mort Richard, William Brewes, a qi le fee simple demura, granta et conferma a Piers et une Agneys, quel il fut a prendre en femme, et a les heirs de lour corps, et la femme out et tient apres la mort soun baron par tiel colour, apres qi mort Thomas est entre come fitz et heir, lestat Thomas serra plus toust ajugge en soun avantage par la secounde taille qe par la primere, et, *per consequens*, tut fut ceo eschaunge,⁴ del houre qil est einz d'autre estat qe par force de cele composition, il ne serra pas barre.—*Thorpe*. Nous avons done continuance destat en Piers, qar nous avons dit qe Piers apres la mort Richard entra, et cel estat continua, et il ne poet estre qe la femme qe rienz navoit, par conferment fait⁵ a luy et soun baron purreit estat prendre; et desicome vous navetz pas dedit la continuaunce en Piers, qar vous nallegeez mye demise ne reprise d'autre estat qe de cel quel nous avons conu a luy, par quei en pledaunt vous avetz

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1345-6.

¹ The words a touz jours are omitted from C.

² H., and C., par.

³ C., serrai.

⁴ All the MSS., except C., chaunge.

⁵ fait is from C. alone.

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A.D.
1845-6. have therefore in pleading stated matter which proves that Thomas's estate could not be by the second limitation, because his mother could not have anything by such release or confirmation.—*Skipwith*. There is neither law nor right which could give Thomas both lands.—And they were adjourned.

Dower. (15.) § Dower. The husband's heir was vouched in the same county and in another county. And he warranted, and pleaded, and lost. Therefore judgment was given that the defendant should recover against the heir if he had anything in the same county, and, if not, against the tenant. And the demand had been previously extended by process on the *Cape ad ralentiam*. A writ issued to the Sheriff to effect execution, and he returned that he had made livery to the value of the whole of her demand, except four librates of rent, out of the inheritance of the heir, and he had made livery of the four librates out of the land of the tenant.—*Greene*, for the defendant, said that the Sheriff had not made livery of the four librates of rent, and prayed an *Alias* writ of execution.—*Mutlow*, for the tenant, said that execution had been effected against him in accordance with the Sheriff's return, and prayed a writ of execution to the value to be directed to the Sheriff of the other county.—*WILLOUGHBY*. It would not be right that you should have that, unless execution had been effected against you. Now the defendant says that execution has not been effected, and it is right that she should be heard to say that, because she will not be ousted by the Sheriff's answer from having execution of her dower.—*Mutlow*. Suppose, on the other hand, that she has

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dit chose qe prove qe lestat Thomas ne purreit A.D.
estre par la¹ secounde taille, pur ceo qe sa
mere par tiel relees ou conferment rienz ne
purreit aver.—*Skip.* Il ny ad ley ne resoun qe
durreit a Thomas lune et luntre terre.—*Et*
ad瓑nantur.

(15.)² § Dowere. Le heir³ le baron fut vouche en Dowere.
mesme le counte et en⁴ autre, qe garrauntist, et [Fitz.,
pleda, et perdist.⁵ Par quei fut agarde qe la ^{Recovere} _{en value,}
demandante⁶ recoverast vers le heir³ sil eust riens⁷ _{4.]}
en mesme le counte, et si noun vers le tenant.
Et la demande devant fut extendu par proces sur
Cape ad ralentiam. Brief issit a Vicounte de faire
execucion,⁸ qe retorna qil avoit livere la value de
tut⁹ sa demande, sauf iiiij.¹⁰ liveres de rente, del
heritage le heir,³ et les iiiij.¹⁰ liveres avoit il livere
de la terre le tenant.—*Grene*, pur la demandante,
dit qe le Vicounte navoit pas fait la livere de les
iiiij.¹⁰ liveres de rente, et pria *sicut alias*.—*Muttl.*,
pur le tenant, dit qe execucion fut fait solonc
ceo qe le Vicounte avoit retourne devers luy,
et pria execucion de la value au Vicounte
del autre counte.—*WILBY.* Cella nest pas resoun
qe vous eietz, si execucion nust este fait
devers vous. Ore dit la demandante qe execucion
nest pas fait, et il est resoun qele soit escote
a cella dire, qar par respons de Vicounte ele ne
serra pas ouste¹¹ daver execucion de soun dowere.—
Muttl. Mettetz areremayn qele eit execucion de

¹ la is from H. alone.⁷ riens is omitted from H.
and C.² From the four MSS., as above.⁸ H., and C., dexecucion, instead³ C., leire, instead of le heir.⁹ of de faire execucion.⁴ L., un.¹⁰ C., tote.⁵ H., perdi.¹¹ C., iij.⁶ All the MSS., except C.,
le demandant, instead of la de-
mandante.¹² H., oste.

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345-6

execution of her dower against us, it would be contrary to what is right if we did not have over to the value; and, if she were listened to, she would by such an allegation oust us for ever from having over to the value, whereas possibly she has been satisfied in respect of her dower; and that would be a greater mischief than to grant us execution at our peril, because, if that execution were not carried out in accordance with what is right, it would be only a disseisin, in respect of which the heir could have a recovery by Assise; and, if averment were taken between us, we should possibly be delayed without cause.—WILLOUGHBY. An *Alias* writ has been awarded by our fellow-justices, and until that has been returned we will not speak further about the matter, &c.

Annuity. (16.) § A writ of Annuity was brought against a vicar by the Prior of Coventry, who counted that, by Ordinary's ordinance on the making of the vicarage, the Ordinary ordained that the vicar should pay to the plaintiff one hundred shillings annually for oblations and obventions among the offerings which were wont to be offered on Sundays. And he made *profer* of the Ordinary's deed testifying that the Ordinary had admitted a vicar on the Prior's presentation in the manner agreed.—*Grene*. You see plainly how he

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soun dowere vers nous, il¹ serreit contre resoun² A.D.
si nous nussoms a la value; et par tiel alleggeaunce,
si ele fut escote, ele nous oustera touz jours de la
value, la ou par cas ele est servy de soun dowere;
et ceo serreit plus graunt³ meschief qe graunter⁴ a
nous execucion a nostre peril, quel execucion, si ele
fut noun resonablement servy,⁵ serreit forqe disseisine,
de⁶ quei le heir⁷ purreit aver recoverir par Assise⁸;
et, si averement fut pris entre nous, nous serroms
delaye par cas saunz cause.—WILBY. Un *sicut alias*
est⁹ agarde par noz compaignouns, et devant qe cel
brief soit retourne nous voloms nient plus parler de
la matere, &c.

(16.)¹⁰ § Annuyte vers vikere par le Priour de Annuite
Coventre¹¹ countant qe¹² par ordinaunce del Ordiner [Fitz.,
Annuite,
sur la fesaunce de la vikarie Lordiner ordeigna¹³ 82.]
qe le viker paiereit a la personne pleintif c.s.
annuelement pur oblacions, obvencions de les
offrendes queux soleient estre offertes le jour de
dymenge.¹⁴ Et myst avant fait Dordiner tesmoignant
qil avoit reseceu vikere al presentement le Priour¹⁵
par la manere.¹⁶—Grene. Vous veietz bien coment il

¹ C., ceo.¹¹ H., and I., un Priour, instead
of le Priour de Coventre.² C., ley.¹² C., coment.³ C., grant.¹³ H., ordina.⁴ C., granter.¹⁴ C., dimeigne.⁵ H., and C., suy.¹⁵ L., and C., patroun.⁶ I.. par.¹⁶ The count or declaration was,⁷ C., leire, instead of le heir.

according to the record, "quod

⁸ H., and I., Attaynt.

" quidam Rogerus nuper Episcopus

⁹ C., fut.

" Coventrensis et Lychefeldensis

¹⁰ From the four MSS., as above,
but corrected by the record, *Placita
de Banco*, Hil., 20 Edw. III.,
R^o 107, d. It there appears that
the action was brought by the Prior
of Coventry against John de Holand,
vicar of the church of the Holy
Trinity of Coventry, in respect of
arrears of an annuity of 100s.

" super ordinatem vicariæ præ-

" dictæ, recitando ipsum Episco-

" pum ad presentationem Prioris

" de Coventre qui tunc fuit et

" ejusdem loci Conventus admisso-

" quendam Ranulphum capella-

" num ad vicariam prædictam in

" vigilia Sancti Andreæ Apostoli

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1845 6. demands the hundred shillings as in respect of offerings which are spiritual things, and therefore we do not understand that the Court will take cognisance of the matter.—WILLOUGHBY. Your answer would be

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demande les c.s. come des offrendes qe sount choses espiritueles, par quei nentendoms mye qe la Court voille conustre.—WILBY. Vostre respons serreit al

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1345-6.

“ anno regni Regis Henrici proavi
 “ domini Regis nunc quadragesimo
 “ nono, quæ quidem vicaria taxata
 “ consistebat in oblationibus, ob-
 “ ventionibus, decimis et proventi-
 “ bus ejusdem ecclesiæ, &c., in
 “ fructibus et proventibus capella-
 “ rum ad eandem ecclesiam spectan-
 “ tibus, videlicet Sanctæ Crucis et
 “ Sancti Nicholai Coventriæ, Sancti
 “ Jacobi Wylshalie et Sancti Cedde
 “ Coundulune, exceptis decimis
 “ bladi et feni, molendinorum
 “ agnorum et lansæ, et omnibus
 “ principalibus legatis redditibus et
 “ servitiis omnium tenentium de
 “ ecclesia memorata, quæ omnia
 “ prædicta Prior et Conventus ante-
 “ dicti perciperent, et prædictus
 “ vicarius solveret præfatis Priori
 “ et Conventui centum solidos
 “ sterlינגorum annuatim ad qua-
 “ tuor anni terminos pro decimis
 “ personalibus quæ inter oblationes
 “ solebant diebus dominicis offerri,
 “ et quod vicarius prædictus omnia
 “ onera ecclesie memorata tam
 “ Episcopalia quam Archidia-
 “ conalia sustinebat. Et prædictus
 “ Episcopus presentationem de
 “ eodem vicario factam simui cum
 “ taxatione vicariæ prædictæ in
 “ forma prædicta, &c., per factum
 “ suum ratificavit et acceptavit,
 “ salvando sibi et successoribus
 “ suis Episcopis loci prædicti jura
 “ Episcopalia et parochialia. Et
 “ Decanus et Capitulum ecclesiæ
 “ de Lychefelde qui tunc fuerunt,
 “ recitantes factum prædictum
 “ prædicti Rogeri Episcopi, &c.,
 “ de præsentatione, admissione, et
 “ taxatione supradictis, eas per
 “ factum suum, auctoritate Cathe-
 “ dralis ecclesiæ sue prædictæ,
 “ ratificaverunt et gratas habuer-
 “ unt. De quibus quidem decimis
 “ personalibus prædictus Ranul-
 “ phus vicarius, &c., et successores
 “ sui fuerunt seisiti, et similiter
 “ iste Johannes de Holand nunc
 “ vicarius, &c., seisitus est de
 “ eisdem decimis virtute ordina-
 “ tionis supradictæ, et de quo
 “ quidem annuo redditu quidam
 “ Willelmus quondam Prior, &c.,
 “ prædecessor, &c., fuit seisitus per
 “ manus prædicti Ranulphi tunc
 “ vicarii, &c., ad festa Natalis
 “ Domini, Paschæ, et Nativitatis
 “ Sancti Johannis Baptiste, et
 “ Sancti Michaelis, per æquales
 “ portiones solvendo. Et prædictus
 “ Willelmus Prior et successores
 “ sui Piores fuerunt seisiti de
 “ eodem annuo redditu per manus
 “ prædicti Ranulphi et successorum
 “ suorum vicariorum ecclesiæ præ-
 “ dictæ usque septem annos ante
 “ diem impetratiois brevis sui
 “ quod prædictus
 “ annuus redditus eidem Priori
 “ nunc est subtractus, unde dicit
 “ quod deterioratus est et damnum
 “ habet ad valentiam centum
 “ librarum. Et inde producit
 “ sectam, &c. Et profert hic in
 “ Curia tam literas prædicti Rogeri
 “ Episcopi quam literas prædic-
 “ torum Decani et Capituli quæ
 “ prædictas presentationem ad
 “ missionem, taxationem, ratifi-
 “ cationem, et confirmationem
 “ testantur in forma prædicta, &c.”

No. 16.

A.D.
1345-6. to the action, and the Ordinary's ordinance made by deed is a lay contract; and, even though there were only three half-pence offered, he would still have the hundred shillings.—STONORE. It will be necessary to see who is to have the power of appointing the vicar.—*Grene*. We will speak of that afterwards, but we demand judgment of the count, because he has not counted on what day the grant was made.—SHARSHULLE. He has counted that it was when the ordinance was made with respect to the vicarage, and we understand that the grant was made at that time; therefore answer.—*Grene*. Judgment of the writ, because you see plainly that he demands this annuity on a composition settled by the Ordinary between parson and vicar, so that he has to deraign this annuity as parson, and he is not described as parson in the writ; judgment of the writ.—SHARSHULLE. Although he demands on an ordinance made between parson and vicar, his purpose is not to recover this annuity by reason of his being parson, because the submission to the Ordinary and the Ordinary's ordinance are between the Prior and the vicar; therefore he will not bring his writ by any other description than that of Prior; and therefore answer.—*Grene* prayed aid of the Ordinary, and of the Prior who was plaintiff, and of the convent of Coventry, in whom the right of patronage reposes, &c.—And by judgment he had aid of the Ordinary, and of the Prior, &c.¹

¹ For a continuation of the report see below Y.B., Easter, 20 Edw. III., No. 68.

No. 16.

accion, et lordinaunce Lordiner par fait est ley contracte; et mesqil ny navoint qe iij mailles¹ offertes unqore il avereit les c.s.—STON. Il fait bien a regarder qi purra faire viker.—*Grene*. De ceo parleroms apres, mes nous demandoms jugement de counte de ceo qil nad mye counte a quel jour le grant se fist.—SCHAR. Il ad counte qe quant lordinaunce se fist de la vikarie, et a cel temps entendoms nous qe le grant se fist; par quei responez.—*Grene*. Jugement de brief, qar vous veietz bien coment qil demande ceste annuite sur une composition taille par Ordiner entre persone et vikere, issint qil est a derener ceste annuite come persone, et il nest pas nome personne el² brief; jugement de brief.—SCHAR. Coment qil demande sur lordinaunce faite entre persone et vicare,³ il. nest pas a recoverir ceo cy par cause de sa personage, qar la submissioun et lordinaunce del Ordiner⁴ est entre le Priour et le viker; par quei par autre noun qe par noun de Priour il ne portera pas soun brief; et pur ceo⁵ responez.—*Grene* pria eide del Ordiner,⁴ et le Priour qe fut pleintif,⁶ et Covent de Coventre, en queux le dreit de patronage demurt, &c.—Et habuit par agard de le Ordeigner et Priour,⁷ &c.⁸

¹ C., oboles.

² All the MSS., except C., en le.

³ All the MSS., except H., patroun.

⁴ C., ordeigner.

⁵ C., par quei, instead of et pur ceo.

⁶ The words qe fut pleintif are omitted from C.

⁷ The words de le Ordeigner et Priour are from C. alone.

⁸ On the roll the aid-prayer immediately follows the count or declaration:—“Et Johannes . . . dicit quod ipse est vica-

“rius ecclesiæ prædictæ et tenet

“eam ex patronatu Prioris de

“Coventre, et quod ipse invenit

“vicariam suam prædictam ex-

“oneratum de annuo redditu

“prædicto, unde dicit quod ipse

“non potest præfato Priori sine

“Priore de Coventre, vicariæ

“prædictæ patrono, et Rogero

“Episcopo Conventriensi et Liche-

“feldensi, loci illius Ordinario

“inde respondere. Et petit auxi-

“lium de eis, &c.”

The Prior, however, counter-

pleaded the aid-prayer, as follows:

A.D.
1345-6.

No. 17.

A.D.
1345-6.
Dower.

(17.) § Dower. The tenant vouched the husband's heir (who was in wardship) in the same county, &c. The voucher was counterpleaded by the guardian, who appeared, on the ground that there were other guardians who were not named. Thereupon they were at issue between them, that is to say, to the effect that the others had nothing in the wardship. The

—“dicit quod prædictus vicarius
“auxilium habere non debet in
“hac parte, quia dicit quod præ-
“dictus Wilelmus quondam Prior,
“prædecessor, &c., fuit de eodem
“annuo redditu seisitus post
“compositionem prædictam, et
“quod ipse est actor et pars
“erga dictum vicarium in placito
“isto, unde non intendit quod
“prædictus vicarius auxilium de
“ipso in hoc casu habere debeat,
“&c.”

According to the roll aid was granted in the following form:—
“Et, quia visum est Curia quod
“auxilium in hoc casu est conce-
“dendum, ideo habeat auxilium
“de eis, &c.”

According to the roll the prayees in aid did not appear “per quod consideratum tunc fuit quod prædictus Johannes responderet sine, &c.”

The vicar then pleaded “quod ubi prædictus Prior superiorius supponit quod quidam Willelmus quondam Prior, &c., prædecessor, &c., et successores sui Piores, &c., fuerunt seisiti de prædicto annuo redditu per manus prædicti Ranulphi et successorum suorum vicariorum ecclesie prædictæ, nec prædictus Willelmus quondam Prior nec successores sui fuerunt seisiti de annuo redditu prædicto per manus prædicti Ranulphi vel successorum suorum sicut prædictus

“Prior nunc superiorius supponit
“Et hoc paratus est verificare, et
“unde petit judicium, &c.”
The Prior replied “quod præ-
“dictus Willelmus quondam Prior,
“&c., fuit seisitus de predicto annuo
“redditu per manus prædicti Ra-
“nulphi secundum ordinationem
“et concessionem prædictas, prout
“ipse superiorius versus eum narra-
“vit. Et hoc petit quod inquiratur
“per patriam.” Issue was joined upon this.

A verdict was taken at *Nisi prius* upon default of the vicar:—
“Postea venit præ-
“dictus Prior per attornatum suum
“prædictum, et similiter juratores
“ibidem veniunt, et prædictus
“Johannes vicarius, &c., non venit.
“Ideo Jurata capiatur versus eum
“per defaltam, &c. Juratores
“dicunt super sacramentum suum
“quod prædictus Willelmus quon-
“dam Prior, prædecessor, &c., fuit
“seisitus de predicto annuo red-
“ditu centum solidorum per manus
“prædicti Ranulphi quondam
“vicarii, &c., prædecessoris, &c., vir-
“tute ordinationis et compositionis
“prædictarum. Juratores, quæsiti
“quædam Prior qui nunc est sus-
“tinuit occasione detentionis anni
“redditus prædicti, dicunt quod ad
“damna sexaginta librarum.”
Judgment was given accordingly
“quod prædictus Prior qui nunc
“est recuperet prædictum annum
“redditum suum centum solidi.

No. 17.

(17.)¹ § Dowere. Le tenant voucha le heir² le baron en mesme le countee en³ la garde, &c.⁴ Le voucher fut countreplede par⁵ les gardeins, qe vindrent, de ceo qils y avoient autres gardeins, nient nomes, sur quei entre eux ils furent a issue, saver qe les autres navoient rienz en la garde.⁶ La

" rum, et similiter damna sua
" prædicta, et prædictus Johannes
" vicarius, &c., in misericordia, &c."
" Et postea prædictus Prior
" remittit damna, &c."

¹ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 376, d. It there appears that the action of Dower was brought by Agnes late wife of William de Gorges against Robert atte Weye, in respect of a third part of 28 shillings of rent in Blackauetone (Blackawton, Devon).

² C., leire, instead of le heir.

³ The words en mesme le countee en are from C. alone.

⁴ According to the record the tenant vouched William de Gorges son and heir of William de Gorges

" cuius terre, &c., sunt in custodia
" Hugonis de Courtenay, Comitis
" Devonie."

⁵ H., and I., et.

⁶ The counterplea of voucher was, according to the record, " Comes dicit quod, " cum prædictus Robertus in vocare " suo ad warantum supponit ipsum " Comitem integre tenere omnia " terras et tenementa prædicti " heredis quæ eidem heredi post " mortem prædicti Wilhelmi de " Gorges descederunt in custodia " ratione minoris ætatis heredis " prædicti, quidam Johannes de " Ferrariis, chivaler, habet in " custodia sua, de hereditate præ-

A.D. 1345-6.
Dowere.
[Fitz.,
Jugement,
175.]

" dicti heredis sex solidatas redditus
" et redditum unius clavi gariophili
" et unius rosæ in Blake Auetone,
" et quidam Walterus Abbas de
" Abbodesbury habet in custodia,
" de hereditate prædicti heredis,
" unam carucatam terræ et sex
" solidatas redditus et redditum
" unius clavi gariophili in Shiptone in Comitatu Dorsete, &c.,
" et quidam Laurentius Prior de
" Fromptone habet in custodia sua,
" de hereditate prædicti heredis
" duodecim denariatas redditus et
" redditum unius clavi gariophili
" in Shiptone in eodem Comitatu
" Dorsetæ, qui non nominantur in
" predicto vocare, &c., et sine
" quibus, &c. Et hoc paratus est
" verificare, &c., unde petit judicium, &c."

To this Robert said " quod quando ipse prædictum heredem in custodia prædicti Comitis vocavit ad warantum, &c., idem Comes habuit in custodia sua omnia terras et tenementa prædicti heredis quæ habuit per descensum hereditarium de eodem Wilhelmo patre, &c., absque hoc quod prædicti Johannes de Ferrariis, Abbas, et Prior tunc aliquid habuerunt in terris prædicti heridis ratione minoris ætatis ejusdem heredis."

Upon this issue was joined between Robert and the Earl, and the *Venire* was awarded.

No. 18.

A.D. 1345-6. defendant prayed her dower, and her prayer was counterpleaded to the effect that she should not have it, because the husband's heir is vouched, in which case the woman's recovery will be against the heir, and not against the tenant.—*Pole*. It is certain that, on this writ, the woman's action will never be counterpleaded, and therefore it is not right that by a traverse taken between the tenant and the vouchee the defendant should be put to delay.—And there was touched the point that, because the warranty was not confessed, she must necessarily be delayed, for, on the supposition that the tenant died while the issue was pending, the writ would abate.—*Grene*. If judgment is rendered now the writ will not abate, and the tenant's heir, if the tenant dies, will have suit to deraign the value, so that in that respect there is no mischief; and if the defendant is delayed the mischief is too great for her.—And the defendant was delayed, and had a day, &c.

Detinue of a writing. (18.) § Detinue of a writing. The defendant pleaded to the country that he did not detain. The detinue was found, to the plaintiff's damage of ten marks in case the writing had not been either burnt or eloigned, and to the damage of twenty marks if it had been eloigned. And the inquest was taken at *Nisi prius*.—WILLOUGHBY asked the plaintiff what judgment he would pray.—*Skipwith*. We pray our damages of twenty marks.—WILLOUGHBY. You will not have that, because possibly you will be able to

No. 18.

demandante pria soun dowere,¹ et est² countreplede
qe le navera pas, pur ceo qe le heir³ le baron est
vouche, en quel cas le recoverir la femme serra⁴
vers le heir³ et noun pas vers le tenant.—*Pole.* Il
est certeine qe, a cestuy brief, laccion la femme
serra⁴ jammes countreplede, par quei il nest pas
resoun qe par travers pris entre le tenant et le
vouche⁵ qe la demandante soit mys en delaye.—Et
fuit touche,⁶ pur ceo qe la garrantie nest pas conu,
qil⁷ covient qele soit delaye, qar mettez qe pendant
lissue le tenant murust,⁸ le brief abatereit.—[*Grene.*
Si le jugement soit rendu a ore le brief nabatera]⁹
pas, et le heir³ le tenant, si le tenant devie, avera
suite a derener la value, issi qe de cel part ny ad
pas meschief; et si la demandante soit delaie le
meschief est trop graunt¹⁰ pur lui.—Et la demandante
est delaye, et ad jour, &c.¹¹

A.D.
1345-6.

(18.)¹² § Detinue descript. Plede fut au pays qe Detinue
il ne detient pas. Trove fut la detenue, a damage descript.
le pleintif de x. marcze en cas qe lescrip. ne fut pas [Fitz.,
ars ou alloigne, et en cas qil fut alloigne a damage Office del
de xx. marcze. Et lenqueste fut pris par *Nisi prius.*— Court, 22.]
WILBY demanda del pleintif quel jugement il voleit
prier.—*Skip.* Nous prioms noz damages de xx.
marcze.—WILBY. Ceo naveretz vous pas, qar par cas

¹ According to the roll "Super⁸ C., muruyst.

" hoc prædicta Agnes instanter

⁹ The words between brackets
" petit seisinam sibi de prædicta
are omitted from H. and I.

" tertia parte, cum pertinentiis,

¹⁰ C., graunt meschief.

" versus prædictum Robertum

¹¹ On the roll the prayer to have
" petita adjudicari, &c."

" C., fuit.

seisin of dower is followed by the
" 2 C., leire, instead of le heir.

" C., serreit.

¹² dies in statu quo
" 3 L., and C., les vouches, instead
" nunc." There was a further
of le vouche.

" 4 C., serreit.

adjournment, but nothing more is
of Et fuit touche.⁵ I., par fait le vouche, instead

shown by the roll.

of Et fuit touche.

⁶ I., Wilby dit qil.

From the four MSS., as above,

but the reports are, from this point,

not in the same order in them all.

Nos. 19, 20.

A.D.
1845-6. obtain possession of the writing; but if you will have the ten marks damages, and further a distress against the defendant to deliver the writing, that you may well have.—*Skipwith*. We do not dare to do that, because we believe that the writing has been burnt, and therefore we pray a new inquest.—*WILLOUGHBY*. You do wisely. Sue, and you shall have it.—And so note that the Justice at *Nisi prius* ought to have enquired whether the writing had been eloigned, or not, &c.

Scire facias.

(19.) § *Scire facias* on a recognisance against ter-tenants on the ground that the death of the recognisor had been previously testified by the Sheriff.—*Gaynesford* alleged, on behalf of one who had been garnished, that he had only a term of years by lease from another person who was tenant of the freehold, and demanded judgment of the writ.—*Birton*. That plea is not to the writ, because the Sheriff had a general command to garnish the ter-tenants.—*WILLOUGHBY* and *HILLARY*. What you say is wrong, because such a writ will never be granted out of this Court; for in every *Scire facias* against ter-tenants which is to issue out of this Court the plaintiff must, at his peril, name the names of the ter-tenants, and against them and no other we will make process in this Court.—*Birton*. Then we pray a new writ, for we cannot deny his exception.—And he had the new writ.

Account.

(20.) § The executors of the Earl of Salisbury brought a writ of Account against the Abbot of Sherborne in respect of the time during which he was bailiff of their testator's manor.—*Grene*. Judg-

Nos. 19, 20.

vous poietz aver lescript; mes si vous voillettz aver les damages de x. marc^z, et outre la destresse vers le defendant de deliverer lescript, vous laveretz bien.—
Skypp. Cella nosoms pas, qar nous quidoms qe il soit ars, et pur ceo nous prioms novel¹ enquête.—
WILBY. Vous fetes² sagement. Suetz, et vous laveretz.—
Et sic nota qe la Justice³ dust aver enquis lequel lescript fut alloigne, ou noun, &c.⁴

A.D.
1345-6.

(19.)⁵ § *Scire facias* hors dune reconissaunce⁶ vers *Scire facias*.
 terre⁷ tenantz pur ceo qautrefoith la mort le [Fitz.,
 reconissour⁸ fut tesmoigne par Vicounte.—*Gayn.* *Scire facias*,
 allegaea pur celuy qe fut garny qil navoit qe terme⁹ 121.]
 daunz du lees un autre qe fut tenant de fraunc
 tenement, et demanda jugement du brief.—*Birtone.*
 Ceo nest pas au brief,¹⁰ qar le Vicounte avoit
 general maundement¹¹ de garnir les terre⁷ tenantz.—
WILBY et *HILL.* Vous dites mal, qar¹² tiel brief ne
 serra¹³ jammes graunte hors de ceinz¹⁴; qar en
 chesqun *Scire facias* vers terre tenantz qe istra hors
 de ceste place le pleintif a soun peril nomera les
 nouns des terre tenantz, et vers ces et nul¹⁵ autre¹⁶
 ne ferroms proces ceinz.¹⁷—*Birtone.* Nous prioms
 novel brief donqes, qar nous ne poms dedire sa
 excepcion.—*Et habuit.*

(20.)¹⁸ § Les executours le Counte de Salesbyrs¹⁹ *Accompte*.
 porterent brief Daccomp²⁰ vers Labbe de Shirbourne [Fitz.,
 du temps qil fut baillif del maner lour testatour.— 78.] *Accompt*,

¹ C., novelle.¹¹ I., garrant.² H., feites; I., facetz.¹² qar is from C. alone.³ I., les Justices.¹³ C., serreit.⁴ C., *Quære* instead of, &c.¹⁴ I., eyeinz.⁵ From the four MSS., as above.¹⁵ C., nulles.⁶ H., conissaunce.¹⁶ C., autres.⁷ H., terres.¹⁷ I., sieinz.⁸ I., creaunsour.¹⁸ From the four MSS., as above.⁹ C., a terme.¹⁹ C., Salesbure.¹⁰ The words au brief are omitted from C.

No. 20.

A.D.
1345-6. ment of the count, for we tell you that, at the time in respect of which he has counted that the Abbot was supposed to be bailiff, there was one A., who was Abbot of the same House, and this Abbot was then only a monk, so that the count by which it is supposed that he was then Abbot is false.—*Huse*. It is not supposed by any words of the count that he was Abbot at the time at which he was bailiff; for, even though that were the fact, which we do not admit, still we should not have any other writ against him except by the description of Abbot, nor consequently any other count; but, if you will take your exception to the action on the ground that at the time at which you were bailiff such suit or action was not given against you, you can do so.—And the count was adjudged good.—*Grene*. Simon, Bishop of Ely, one of the executors, &c., named in the writ, is dead; judgment of the writ.—*Huse*. He was severed, and died after the severance, and therefore the writ is good, because if he had died before the severance, the fact would have been returned by the Sheriff.—*HILLARY*. No, he was severed, as we find by the record, by reason of his non-suit after appearance.—*Grene*. Yes, he died before the severance.—*Huse*. Executors demand for the benefit of their testator's estate, and not for their own profit, and therefore, as it seems to me, the death of one of them ought not to abate the writ.—And afterwards the writ was abated by judgment, &c.

No. 20.

Grene. Jugement de counte, qar nous vous dioms
 qual temps qil ad counte¹ qil dust estre baillif
 adonques il y avoit un A. Abbe de mesme la mesoun,
 et ceste adounques ne fut forqe moigne, issint le²
 counte par quel est suppose luy adonques estre Abbe
 est faux.—*Huse.*³ Il nest pas suppose Abbe par
 nulle parole⁴ de counte au temps qil fut baillif; qar,
 tut fut il issint, come nous ne conissons pas,
 unqore nous naveroms nul autre brief devers luy
 forqe par noun de Abbe, *nec per consequens* autre
 counte; mes si vous voilletz prendre vostre chalenge
 al accion pur ceo qe adonques quant vous fustes⁵
 baillif tiele suite ne accion ne fut pas done devers
 vous, vous le poietz.—Et le counte fut agarde bon.—
Grene. Symond Evesqe Dely, un des executours, &c.,
 nomes en le⁶ brief, est mort; jugement du brief.⁷—
*Huse.*⁸ Il est severe, et fut mort puis la severaunce,
 par quei le brief est bon, qar sil ust este mort
 devant la severaunce, ceo ust este retourne par
 Vicounte.—*HILL.* Nanyl,⁹ il fut severe, come nous
 trovoms par recorde, par sa nounsuyte apres appar-
 aunce.—*Grene.* Oyl, il fut mort avant¹⁰ la sever-
 aunce.—*Huse.*¹¹ Executours demandent al oeps lour
 testatour, et noun pas a lour profit demene,¹² par
 quei la mort dun deux,¹³ a ceo qe moi¹⁴ semble, ne
 dust pas abatre le brief.—Et puis le brief fut abatu
 par agarde, &c.¹⁵

A.D.
1345-6.¹ I., compte.¹² I., de eaux.² H., C., and I., par.¹³ moi is omitted from C.³ I., *Huse.*¹⁴ As this writ was abated by⁴ C., paroule.

judgment, the case does not appear

⁵ H., fustes.

on the roll of this term. Another

⁶ C., el, instead of en le.

writ of Account was, however,

⁷ All the MSS. except C., &c.,

brought, and the cause was heard

instead of du brief.

in the following Michaelmas Term.

⁸ C., Nanyll.

See Y.B., Mich., 20 Edw. III.,

⁹ H., apres.No. 84, and *Placita de Banco*, Mich..¹⁰ H., and I., *Huse.*

20 Edw. III., R° 419.

¹¹ All the MSS., except C., propre.

No. 21.

A.D.
1845-6.
*Ad
terminum
qui
præteriit.*

(21.)¹ § Edward Trenchaunt and his co-parcener brought an *Ad terminum qui præteriit* in respect of the office of bailiff of the soke of Winchester, counting that their ancestor was seised as of fee and of right of the office of bailiff, taking the esplees as in taking two pence a day from the Bishop of Winchester, and one robe a year, and four pence for every seisin recovered in the King's Court and delivered, &c.—*Gaynesford*. Judgment of the count. He has laid the esplees as of one robe a year and two pence a day, and they cannot be taken from the office of bailiff, whereas naturally esplees ought to be taken from the subject of the demand.—*Grene*. He takes all this by reason of his office of bailiff, and therefore these

¹ The commencement of this | No. 26, where it appears that view case is in Y.B., Easter, 19 Edw. III., | was prayed and granted.

No. 21.

(21.)¹ § Edward Trenchaunt et sa parcenere A.D.
porterent *Ad terminum qui præteriit* de la baillie de 1845-6.
la sokage² de Wyncestre, contaunt qe leur auncestre *Ad terminum*
fut seisi de fee et de³ dreit de la baillie, pernant *qui præteriit.*
les esplees come en pernant ij. deners le jour del
Evesqe de Wyncestre, et un robe par an, et iiiij.
deners pur chequene seisine recoveri en la Court
le Roi et livere &c.—*Gayn.* Jugement du count.
Il ad lie les esbles come⁵ dune robe par an
et ij. deners le jour, qe ne poet estre pris
de la baillie, la ou naturelment les⁶ esblees
deivent estre pris de la demande.—*Grene.* Ceo
prend il par cause de sa baillie, par quei ces

¹ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R° 881. It there appears that the action was brought by Edward Trenchaunt, and Richard Chanyn, and Margery his wife, against Walter de Theddene, in respect of "ballivam de soke Wyntonie, cum pertinentiis, in suburbio Wyntonie, Alresforde, Sutton, Welde, Bentle, Craule, Merewelle, Biterne, Hamoite, Estmune, Hameldene, Hursle, Overtone, Waltham Episcopi, et Farham Episcopi, ut jus et hereditatem ipsorum Edwardi et Margeris, et in quam idem Walterus non habet ingressum nisi post dimissionem quam Johannes le Mareschal, avus predicti Edwardi, et pater predicta Margeris, cuius heredes ipsi sunt, inde fecit Gilberto le Mares-

chal ad terminum qui præteriit."

² C. is the only MS. in which the word is written at length. In the other MSS. it is soc.

³ de is omitted from C.

⁴ The count was, according to the record, "quod predictus Jo-

" hannes avus predicti Edwardi et pater predicta Margeris fuit seisisus de predicta balliva, cum pertinentiis, ut de feodo et jure, . . . capiendo inde expletias, videlicet, de Episcopo Wyntonensi unam robam per annum, et quolibet die per annum duos denarios, et pro qualibet seisina per preceptum Regis liberanda quatuor denarios, et in aliis ad valentiam, &c. Et de ipso Johanne descendit jus, &c., quibusdam Alicia, Matildi, et prefatis Margeris que nunc petit simul, &c., ut filiabus et heredibus, &c. Et de ipsa Matildi, que habitum religionis in Abbatia beatae Marie Wyntonie assumpsit, in qua professa fuit, et oblit sine herede de se, descendit jus propartis suæ prefatis Alicia et Margeris ut sororibus et heredibus, &c. Et de ipsa Alicia descendit jus propartis suæ isti Edwardo ut filio et heredi qui nunc petit simul, &c. Et in quam, &c. Et inde producit sectam, &c."

⁵ come is omitted from H.

⁶ les is omitted from C.

No. 22.

A.D.
1345-6. are the esplees and the profit.—And the count was adjudged good.—*Gaynesford*. His demand, which has been put in view, is the office of the Marshalship of Winchester, and by such name it has been named from all time, and by such name it should be demanded; judgment of the writ.—*Grene*. That is not a plea unless you say “and not the office of bailiff,” as we suppose, or else you would allege non-tenure of our demand; and we will aver, if you will deny it, that it is the office of bailiff as above.—*Gaynesford* waived the exception, and said:—The subject of demand extends into several vills which are not mentioned in the writ; judgment of the writ.—*Grene*. You shall not be admitted to that, because you have pleaded matter of fact to the abatement of our writ, and therefore you shall not now be admitted to abate our writ by another dilatory plea.—*WILLOUGHBY*. He did not abide judgment on that exception.—And afterwards the writ abated on non-denial, &c.

Trespass. (22.) § Trespass in respect of one cow and one calf

No. 22.

sount les esplees et le profit.—Et le counte fuit agarde bon.—*Gayn.* Sa demande mys en vewe est l'office del¹ Mareschalsie de Wyncestre, et par tiel noun de tut temps il est nome, et par tiel noun serra demande; jugement de brief.—*Grene.* Ceo nest pas plee si vous ne dietz et² noun pas baillie com nous supposoms, ou autrement qe vous vodrietz allegger nountenure³ de nostre demande; et nous voloms⁴ averer, si vous le voillett dedire, qe cest la baillie *ut supra*.—*Gayn.* weyva lexception et dit qe la demande sestent en plusours villes qe ne sount pas nomez en le brief; jugement de brief.⁵—*Grene.* A ceo ne serrez resceu, qar vous avetz plede par chose en fait al abatement de nostre brief, par quei ore par autre excepcion dilatorie dabatre nostre brief vous ne serrez mye resceu.—*WILBY.* Il demura mye sur cele chalenge.—Et puis sur nient dedire le brief abatist, &c.⁶

A.D.
1345-6.(22.)⁷ § Trans dune vache et un veel amenez Trans.¹ C., de la.² C., qe.³ C., nountenue.⁴ C., le voloms.

⁵ The words jugement de brief are from C. alone. The plea was, according to the record, "quod prædicta balliva est quoddam officium Marescalcum, &c., et in pluribus villis quam in prædicto brevi inseruntur se extendit, vide licet, in Brokenesforde, Bradele, Bertonestacy, Romeseye, et Wintonia. Et hoc paratus est verificare, unde petit judicium de brevi, &c."

⁶ In C. there are added the words *Vide supra principium*. The concluding words of the record are "Et Edwardus et alii non possunt hoc dedicere. Ideo consideratum

" est quod iidem Edwardus et alii nihil capiant per breve suum,
" &c."

⁷ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 278, d. It there appears that the action was brought by John de Bouklond, knight, against Margery late wife of John de Grymstede, and Roger Peny, in respect of a taking of one cow and one calf, "in villa de Brokle in quodam loco qui vocatur Wyeste Pyndelleseyefryde. Et eos injuste detinuerunt contra vadium et plegios."

Margery traversed the taking, and issue was joined upon her traverse.

No. 22.

A.D.
1845-6.

driven away against the peace.—*Derworthy*. We tell you that, as executors of one A.,¹ we came to the place in which he supposes the taking to have been effected, and brought together the beasts which belonged to the deceased, for the purpose of making an inventory, and this cow and the calf were among the other beasts, and we could not separate them from the others, and, when we drove the other beasts, the cow and calf followed those other beasts, &c.—*Huse*. That is tantamount to saying that you did not take or drive away our beasts as we complain; ready, &c., that you did.—*Derworthy* changed his answer, and said as above, adding, “and therefore we drove them to a certain place, among the other beasts, to a pound, and we separated them from the other beasts, and, when they were separated, we drove them back to the place in which they were found; judgment whether in respect of such a driving you can attach any tort, against the peace, in our person.”—*Huse*. You have confessed that you

¹ As to the names of the executors, against whose servant the action was brought, see p. 85, note 3.

No. 22.

countre la pees.—*Der.* Nous vous dioms qe nous venimes al lieu ou il suppose la prise estre fait, come executours un A., et embraceames les bestes qe furent au mort, pur faire inventare, et ceste vache et le veel furent entre les autres bestes, et nous les ne poames severer de les autres, et, quant nous chaceames les autres bestes, le vache et le veel pur-suyrent les autres bestes, &c.—*Huse.* Tant amount qe vous ne preistes ne enchaceastes noz bestes come nous pleinoms¹; prest, &c., qe si.—*Der.* chaungea soun respons, et dit *ut supra*, par quei nous les chaceames a un certain lieu, entre les autres bestes, a un parke, et les severames de les autres bestes, et quant ils furent severetz nous les rechaceames al lieu ou ils furent trovetz; jugement si de cel enchace² tort countre la pees en nostre personne puissetz attacher.³—*Huse.* Vous avetz conu qe vous enchaceastes noz

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1345-6¹ C., pleignoms.² H., enchaiez; C., enhacer.

³ C., assigner Roger's plea was, according to the record, "quod quidam Johannes de Grymstede fuit dominus de Brokenhurst in Nova Foresta juxta Brokle, quae quidem villa de Brokenhurst et Brokle se jungunt ad invicem, et dicit quod locus in quo, &c., est quædam pastura in Nova Foresta prædicta, ubi animalia prædictarum villarum se compascunt in communi pastura, &c., et dicit quod prædictus Johannes de Grymstede obiit, et fecit executores suos Johannem Elys et Radulphum Elys et alios, qui quidem executores præceperunt predicto Rogerio, tanquam servienti suo petendi et ducendi omnia animalia predicti Johannis defuncti in predicta pastura et alibi existentia ad Curiam de Broken-

"urst prædictam, ad faciendum inventorium ejusdem defuncti de omnibus bonis suis. Et ipse quæsivit omnia animalia in prædicto loco et alibi prædicti defuncti, qui quidem vacca et vitulus non potuerunt separari eundo ad Curiam prædictam de Brokenhurst. Et postea ipse Rogerus separavit prædictos vaccam et vitulum de animalibus prædicti defuncti, et refugavit eosdem vaccam et vitulum in prædicto loco de Brokle quo prius extiterunt, et sic prædictus Johannes de Bouklond habet et seisisitus est de prædictis vacca et vitulo ad voluntatem suam, et hoc paratus est verificare, &c., unde petit judicium, &c., si prædictus Johannes de Bouklond aliquam injuriam in persona ipsius Rogeri assignare possit in hoc casu, &c."

No. 23.

A.D. 1345. 6. drove off our beasts without cause, and therefore we pray our damages.—*Derworthy*. Then it is so.—*Huse* did not dare to abide judgment, but said that the defendant drove off the beasts *de son tort demesne*, without such cause as had been assigned; ready, &c.—And the other side said, on the contrary, that it was for such cause.

Avowry. (23.) § John le Olde¹ avowed on the plaintiff on the ground that the plaintiff held of him by certain services, and laid the seisin by the hand of the avowant's grandfather, and he avowed for homage and fealty in arrear.²—*Thorpe*. We tell you that Isabel de Forte, Countess of Albemarle, was mesne between the avowant's great-grandfather, of whom the tenant in demesne held, and the King, the Countess's lord, which Countess purchased the demesne to hold to herself and her heirs of her tenant, and by that purchase the seignory of her ancestor was extinguished. And *Thorpe* traced the tenancy by feoffment and descent from the Countess to the plaintiff who now pleads. And thus we are tenant of our Lord the King, attendant to him in respect of our services; judgment whether they can maintain this avowry for a seigniorial matter.—*Huse*. You see plainly how his plea is only a disclaimer, or else to the effect that the tenements are out of our fee, and therefore the law does not put me to answer to that which he alleges, inasmuch as he

¹ The name is not correctly given in the report. According to the record the plaintiff was William le Olde, and the avowant John de Compton. See Y.B., Easter,

20 Edw. III., No. 46, where the record is quoted.

² According to the record John de Crompton avowed for rent, suit of court, and fealty in arrear.

No. 28.

bestes saunz cause, par quei nous prioms nos damages.—*Der.* Donques est il issi.—*Huse* nossa demurer, mes dit qe il les enchacea de son tort demene, sanz tiel cause; prest, &c.—*Et alii e contra*, qe par tiel cause.¹

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(28.)² § Johan le Oulde avowa sur le pleintif pur Avowere. ceo qe il tient de luy par certein services, et lia [Fitz., seisine par my la meyn laiel lavowaunt, et pur Avowre, lomage et la³ fealte⁴ arrere avowa.—*Thorpe.* Nous 126.] vous dioms qe Isabelle de Forte, Countesse Daumarle,⁵ fut mene entre le besaiel lavowaunt, de qi le tenant en demene tient, et le Roi seignur la Countesse,⁶ la quelle Countesse purchacea la demene a luy et a ses heirs de⁷ tenant, par quel purchace la seignurie soun auncestre fust esteynt. Et conveia la tenance par feffement et descente de la Countesse tantqal pleintif qore plede. Et issint sumes tenant nostre seignur le Roi, entendant a luy de noz services; jugement si pur chose seignurie puissent⁸ ceste avowere meintener.—*Huse.* Vous veietz bien coment son plee nest qun desclamance, ou autrement qe les tenementz sount hors de nostre fee, par quei a ceo qil allegge ley ne moi mette a respoudre, desicomme

¹ The replication was, according to the record, "quod prædictus Rogerus cepit prædictos vaccam et vitulum, et eos injuste detinuit "contra vadum et plegios, &c., et "adhuc inde seisitus est, sicut ipse superius asserit, et hoc paratus "est verificare."

This was followed by a rejoinder from Roger, upon which issue was joined, "quod ipse non cepit prædictos vaccam et vitulum alio modo quam ipse superius asserit, "nec eos detinuit, nec de eis "seisitus est."

The award of the *Venire* follows

on the roll, but nothing further.

² From the four MSS., as above. The record of the case has been found among the *Placita de Banco* of the term next following (Easter, 20 Edw. III.), R^o 223, d, and there is another report concluding the case in that term (No. 46).

³ la is from C. alone.

⁴ H., foialte; C., feaute.

⁵ L., and C., Darundelle.

⁶ The words seignur la Countesse are omitted from C. and H.

⁷ C., del.

⁸ C., puissetz.

No. 28.

A.D.
1845-6. does not take his plea in accordance with the course of law; therefore we pray the return.—WILLOUGHBY. Is it as he has said, or not?—*Birton*. Even though it were as he has said, it would be bad law that the mesne seignory would be extinguished by the purchase of the lord paramount.—WILLOUGHBY. It is law, and so it must be.—*Birton*. It would be right that the lord paramount who purchases the demesne should be tenant to the mesne, and that the mesne should stand in his place with regard to the lord above him.—HILLARY. Then you mean that by his purchase he would become tenant to the person whose lord he previously was, and that cannot be.—WILLOUGHBY. Yes, the mesne seignory must be extinguished, or else a tenant might hold one and the same tenancy of divers lords, and that cannot be; therefore, will you abide judgment on the point?—*Huse*. Not admitting that the Countess held of the King, we tell you that long before the statute,¹ in the time of King Henry III., the Countess gave to our ancestor in fee simple to hold of her and her heirs, and that our ancestor gave the same tenements to the plaintiff's ancestor to hold of him and his heirs, &c.; and we demand judgment, and pray the return.—*Thorpe*. Then it is the fact that the Countess purchased as above. And, inasmuch as you do not show any later title to the seignory, we pray judgment.—*Huse*. We tell you, as above, that the Countess, after that purchase of which you speak before the statute, in the time of King Henry III., at which time the King's tenant could give to hold of himself, gave to our ancestor as above, and our ancestor gave over; and we demand judgment, and pray the return.—*Thorpe*. And inasmuch as you

¹ *De prerogativa Regis*, according to the record. The pleadings, however, from this point, differ | from those in the report of Easter Term, with which the record more closely corresponds.

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il ne prent mye soun plee par cours de ley; par
quei nous prioms retourn.—*WILBY*. Est il issint
come il dit ou nient?—*Birtone*. Tut fuit il issi
come il parle, il serreit malveys ley qe par le pur-
chace le seigneur paramount la seignurie mene fuit
esteynt.—*WILBY*. Il est lei et issi covent il estre.—
Birtone. Il serreit resoun qe le seignur paramount
qe purchace le demene fuit tenant au mene, et le
mene¹ devenue en soun lieu vers le seignur para-
mount luy.—*HILL*. Donques vodretz vous qe par
soun purchace il devendreit tenant a celuy a qi il
fut seignur a devant, et ceo ne poet estre.—*WILBY*.
Oil, il covient qe la seignurie mene soit² esteint, ou
autrement qun tenant tendreit de divers seignurs un
mesme tenance, qe ne poet estre; par quei voillettz
la demurer?—*Huse*. Nient conissaunt qe la
Countesse tient du Roi, vous dioms qe long temps
devant lestatut, en temps le Roi Henre, la Countesse
dona a nostre auncestre en fee simple a tenir de
luy et de ses heirs, et qe nostre auncestre dona
mesmes les tenementz al auncestre le pleintif a
tenir de luy et ses heirs, &c.; et demandoms
jugement et prioms retourn.—*Thorpe*. Donques est il
issi qe la Countesse purchasea *ut supra*. Et, desicome
vous ne moustrezz pas title de seignurie puis, nous³
prioms jugement.—*Huse*. Nous vous dioms, *ut supra*,
qe la Countesse puis cel purchase dount vous parletz
devant lestatut en temps le Roi Henre, a quel temps
le tenant le Roi poait doner a tenir de luy mesme,
dona a nostre auncestre *ut supra*, et nostre auncestre
dona outre; et demandoms jugement et prioms
retourn.—*Thorpe*. Et⁴ desicome vous avetz conu qe

¹ All the MSS. except C., qe il
fut, instead of le mene.

² C., ne soit.

³ The words puis, nous are
omitted from H. and I.

⁴ Et is from H. alone.

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1345-6. have admitted that the Countess was the King's tenant, even though it was before the statute, we understand that the law was the same then as now, that is to say, that no tenant of the King could aliene to hold of any one but the King, so that all the subsequent feoffees were and are tenants of the King; and therefore we demand judgment of this avowry.—And they were adjourned.

Dower :
rent de-
manded. (24.)¹ § Rent was demanded against several persons. To the View the Sheriff returned that some were dead.—*Grene* recited as above, and demanded judgment, and prayed that the writ might be abated.—The defendant prayed that the parties might be called, because he said that, although the Sheriff had returned their death, the persons were living; and because they did not appear he prayed the *Petit Cope* by reason of their default.—*Grene*. You cannot have an answer contrary to the Sheriff's return, but the writ ought to be abated; and, if the Sheriff has made a false return, sue by writ of *Deceit* against him; for suppose that the Sheriff had returned to the Summons that the tenant was dead, the defendant would have nothing to say in order to maintain the writ.—*HILLARY*. What you say is wrong; if he wished, he could have a *Protestatum est*, or an *Alias* Summons, out of this Court, and so now he will have, at his peril, a *Protestatum est* to the effect that the tenants are living.—And the defendant prayed a *Petit Cope*.—And he had it by judgment.

Wardship. (25.) § A writ of Wardship of the body and of the lands was brought on behalf of two persons. One did not prosecute his suit. The defendant demanded judgment of nonsuit in respect of both.—*Skipwith*. This is an action affecting the right, and it is not

¹ This may be a continuation of Y.B., Hil., 19 Edw. III., No. 29, and Trin., 19 Edw. III., No. 55.

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la Countesse fuit tenant¹ le Roi, tut fut ceo devant lestatut, nous entendoms mesme la ley adonques come ore, saver,² qe nul tenant le Roi poait aliener a tenir d'autre forqe de Roi, issint qe touz les feffes puis furent et sount tenantz le Roi ; par quei nous demandoms jugement de ceste avowere.—*Et adjornantur, &c.*

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1345-6.

(24.)³ § Rente demande vers plusours. A la viewe Dowere : le Vicounte retourna qe les uns sount mortz.—*Grene* Rente de rehercea *ut supra*, et demanda jugement et pria qe [Fitz., le brief fut abatu.—Le demandant pria qe les parties *Avere-* fuissent demandetz, qar il dit, coment qe le Vicounte *ment*, 32.] retourna lour mort, qils furent en vie ; et pur ceo qils ne vindrent pas il pria le petit *Cape* par lour defaut.—*Grene*. Countre retourne de Vicounte vous⁵ naveretz pas respons, mes il covient qe le brief soit abatu ; et sil eit fauxement retourne, suetz par⁶ brief de Desceite vers luy ; qar mettezt moi qe a la somons le Vicounte ust retourne qe le tenant fuit mort, le demandant avereit rienz a dire pur maintener le brief.—*HILL*. Vous ditetz mal ; sil voleit, il avereit *protestatum est*, ou une somons *sicut alias* hors de ceinz,⁷ et auxi avera il ore a soun peril *protestatum est* qe les tenantz sount en vie.—Et pria⁸ petit *Cape*.—*Et ita habuit* par agard.

(25.)⁹ § Garde de corps et des terres pur deux. Garde.¹⁰ Lun ne suyst pas. Le defendant demanda jugement de la nounsuyte de lun et de lautre.—*Skypp*. Ceo est un accion en dreit, et nest pas resoun qe par

¹ C., tenance.² All the MSS except C., qore, instead of come ore, saver.³ From the four MSS. as above.⁴ The marginal note in H. is *Præcipe*. The words Rente demande are from L., from which the word Dowere is omitted.⁵ vous is from C. alone.⁶ par is omitted from C.⁷ I., cyeynz.⁸ The words Et pria are omitted from H. and C.⁹ H., Garde de corps.

No. 26.

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1845-6. just that by the nonsuit of one the other should be debarred from his right; therefore it is just that the one who prosecutes his suit should have an action with respect to the entirety; and that has been often adjudged in like case, and in Intrusion upon Wardship also.—WILLOUGHBY. Severance was never awarded in such a case, nor is it any more right in this case than in Debt, Detinue, or Covenant. And as to that which you allege as being mischief for the one who prosecutes his suit, there would be the same mischief to the one who is now nonsuited if you were to recover alone, because then he would be debarred from his right.—*Thorpe* to WILLOUGHBY. Sir, that is not what used to be held in former times.—And they were adjourned.

*Audita
Querela*

(26.) § A writ of *Audita Querela* was sent to the Justices supposing that the person who sued it was compelled by duress of prison to execute a statute merchant in favour of another. And the writ purported that, *vocatis partibus*, they should do what was right. And upon this writ a *Venire facias* was prayed against the party.—HILLARY. It would be extraordinary to defeat matter of record by such suit.—*Grene*. It has been seen that an infant under age who had executed such a statute has been aided by such suit.—STONORE. Yes, that was during his nonage, where the Court, after making inspection at the time of his suit, adjudged him to be under age; but if he waits until he has become of full age, he will fail to have such suit; and your writ does not mention that you were in the prison of the person in whose favour the statute was executed.—*Grene*. That will be understood; and even if it were not so, this suit would still be in accordance with what is right. And it has often been seen in this Court that, where a party had paid the money, and the statute had been cancelled in lieu of acquittance, and the other party

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nounisuyte del un qe lautre soit forclos de soun dreit; par quei il est resoun qe celuy qe suyst eit accion del enter; et ceo ad este sovent ajuge en autiel cas, et en Intrusion de garde auxint.—WILBY La¹ severaunce en tel cas ne fut unques agarde, ne nient plus est il resoun cy² qen Dette, Detenue, ou³ Covenant. Et ceo qe vous alleggetz pur meschief pur celuy qe suyst, mesme le meschief y avereit pur celuy qest ore nounsy si vous recoverez soul, qar donques serra⁴ il forclos.—Thorpe a WILBY. Sire,⁵ ceo soleit pas estre tenu devant.—Et adjornantur.

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(26.)⁶ § *Audita Querela* fut maunde a les Justices, supposant qe celuy qe suyst fut mys par duresce de prisoun de faire un estatut marchaunt a un autre. Et le brief voleit *rocatis partibus* qils feissent resoun, hors de quel brief *Venire facias* fut prie vers la partie.—HILL. Il serroit merveille a defaire chose de recorde par une tiele suite.—*Grene*. Homme ad view qe enfaunt deinz age qe fist estatut fut eide par tiele suite.—STON. Oyl, ceo fut durant son nounage, ou Court par inspeccion a temps de sa suite luy ajugea deinz age; mes, sil attend tanqil fut de plein age, il faudra de tiel suite; et vostre brief ne fait pas mencion qe vous fuistes en la prisone de celuy a qi lestatut fut fait.—*Grene*. Ceo serra entendu; et tut ne fuit il pas issint, unqore ceste suite serroit resonable.⁷ Et homme ad viewe ceinz sovent⁸ qe ou partie avoit paie les deners, et lestatut dampne en lieu daquitance, et apres lautre

Audita Querela
[Fitz.,
Audita Querela,
27.]¹ C. Sa.⁶ From the four MSS. as above.² C. icy.⁷ I, il serra resceu, instead of³ ou is omitted from H. and I.

ceste suite serroit resonable.

⁴ C., serroit.⁸ sovent is omitted from C.⁵ Sire is omitted from C.

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1345-6. had afterwards sued execution upon a false and feigned statute, the person who was aggrieved was afterwards aided by such a writ.—HILLARY. Would you have a *Supersedeas*? That would not be right.—*Grene*. We tender you mainprise to prosecute the suit; and with regard to the lands delivered or to be delivered we do not pray a *Supersedeas*, but we pray a *Venire facias* against the party, as above, and when he comes he will have his answer.—WILLOUGHBY. Even if you have the writ there is no harm.—And the writ was granted to him.

Quod permittat. (27.) § A *Quod permittat deexaltare quoddam stagnum* was brought against the Prior of the Hospital [of St. John of Jerusalem in England], on which the count was that his predecessor raised the level of the said stank, which adjoins the plaintiff's lands, in the time of the plaintiff's grandfather,¹ by reason whereof certain acres of meadow and of arable land, which belonged to his grandfather,¹ were overflowed through the holding up of the water. Therefore, whereas he¹ used formerly to let the said land and meadow for forty pounds *per annum*, he could not afterwards let them for more than four shillings. And he traced the descent of the soil from the grandfather¹ to

¹ Grandmother, according to the record. See p. 95, notes 3 and 7.

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suyt sur faux estatut et feint une execucion qe apres¹ celuy qe fuit greve fut eide par tiel brief.—
 HILL. Vodretz vous aver une *Supersedeas*? Ceo ne serreit pas resonable.—*Grene*. Nous vous tendoms,² meinprise de suire; et quant a les terres liverez ou a liverer nous ne prioms pas *Supersedeas*, mes nous prioms *Venire facias* vers la partie, *ut supra*, et quant il vendra il avera soun respons.—WILBY. Mesqe vous eietz le brief il ny ad mye mal.—Et le brief luy est grante.

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1345-6.

(27.)³ § *Quod permittat deexaltare quoddam stagnum Quod permittat.*
 vers le Priour del Hospital,⁴ countaunt qe⁵ soun predecessor enhaucea le dit estaunke, qest joignaunt as terres le pleintif, a temps de soun aiel, parount certaines acres de pree et de terre qe furent a soun aiel par retener⁶ del ewe furent surundes; par quei, la ou il soleit lesser la dite terre et pree pur xl.li. a devant, il ne les poait lesser apres forqe pur iiiij.s. Et fist la descente du soille del aiel tanqal pleintif, &c.⁷—

¹ apres is from C. alone.² C., troveroms.

³ From the four MSS. as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o. 325. It there appears that the action was brought by Baldwin de Friville against Philip de Thame, Prior of the Hospital of St. John of Jerusalem in England, "quod per-
 "mittat ipsum deexaltare quod-
 "dam stagnum in Mawardyn, quod
 "Thomas Larcher, nuper Prior
 "Hospitalis Sancti Johannis Jeru-
 "salem in Anglia, predecessor
 "predicti nunc Prioris Hospitalis
 "predicti, injuste et sine judicio
 "exaltavit ad documentum liberi
 "tenementi Johannæ quæ fuit uxor
 "Alexandri de Friville aviss pre-
 "dicti Baldewini, cuius heres ipse
 "est."

⁴ I., Ospital.⁵ C., coment.⁶ All the MSS., except H., retourne.

⁷ The declaration was, according to the record, "quod cum prædicta "Johanna avia, &c., seista fuisset "de centum acris terræ et viginti "acris prati, cum pertinentiis, in "Mawardyn in dominico suo ut de "feodo et jure, a "latere cujus terræ et prati quædam "riparia quæ vocatur Lugge rectum "cursum suum tenere solebat, et "currere infra ripas ejusdem "ripariæ a villa de Bodenham per "medium prædictæ villæ de "Mawardyn prope eadem terram "et pratum ipsius Johannæ in "eadem villa jungens ad terras "ipsius Prioris in eadem villa de "Mawardyn, et ab inde usque stag-

Nos. 28, 29.

A.D. 1845-6. the plaintiff. — *Birton* prayed view, and had it.

Note : *Elegit.* (28.) § Note that the Abbot of Ramsey, who had heretofore recovered Damages, and prayed an *Elegit*, and been adjourned to this Term on the question whether he should have an *Elegit* or not, now had it by judgment, &c.

Debt. (29.) § A writ of Debt was brought against an Abbot, and the count was that his predecessor, with the consent of the Convent, in the time of the

Nos. 28, 29.

Birtone demanda la viewe, et habuit.¹

A.D.

1345-6.

(28.)² § *Nota* qe Labbe de Rameseye, qavoit autre-
foith recoveri damages, et pria *Elegit*, et fut ajourne
le quel il avera³ le *Elegit* ou nient⁴ tanqa ceste *Execucion*,
terme, et ore par agard il lavoit, &c.

Nota:

*Elegit.*⁵

[Fitz.,

82.]

(29.)⁶ § Dette vers⁷ Abbe, countant qe⁸ soun pre-
decessour, del assent le⁹ Covent, en temps laiel, soi *Abbe*, 14.]

Dette.

[Fitz.,

14.]

" num ipsius Prioris in eadem villa,
" et a stagno illo versus mare, quo
" tempore prædicta Johanna per-
" cipere solebat per annum pro
" bladiis et herbis super terram et
" pratum ipsius Johannæ prædicta
" crescentibus quadraginta libras,
" prædictus Thomas, prædecessor,
" &c., injuste, &c., stagnum præ-
" dictum exaltavit, per quod aqua
" ejusdem ripariorum retinebatur, et
" adhuc retinetur, ita quod aqua
" illa tunc refuit et superundavit,
" et adhuc superundat prædicta
" terram et pratum que tunc fuerunt
" ipsi Johannæ in eadem villa, per
" quas quidem superundationem
" et longam retinenciam aquæ illius
" blada et herbes crescentia in
" eisdem terra et prato de anno in
" annum submersa fuerunt, et
" adhuc existunt, ita quod eadem
" Johannæ post stagnum illud sic
" exaltatum in vita sua percepisse
" non potuit annualiter nisi qua-
" tuor solidos pro bladiis et herbis in
" terra prædicta crescentibus, nec
" prædictus Baldewinus post ejus
" deceſſum modo plus non percipit
" de eisdem nec percipere potest,
" quas predicta Johannæ de tene-
" mentis prædictis obiit seſita, &c.
" Et de ipsa Johannæ descendit jus,
" &c., cuidam Baldewino ut filio
" et heredi, qui obiit seſitus de
" tenementis prædictis, &c. Et de
" ipso Baldewino descendit jus, &c.,

" isti Baldewino qui nunc, &c., ut
" filio et heredi, &c. Prædictus
" Thomas nuper Prior, &c., præ-
" ceſſor, licet per præſatam
" Johannam in vita sua seu per
" prædictum Baldwinum post
" deceſſum ipsius Johannæ sepius
" requisitus quod stagnum illud
" permitteret deexaltare, nec præ-
" dictus Philippus nunc Prior, &c.,
" post mortem prædicti Thomæ,
" &c., prædecessoris, &c., per ipsum
" Baldwinum patrem, &c., seu per
" ipsum Baldwinum qui nunc, &c.,
" sepius sic requisitus quod stag-
" num prædictum deexaltare per-
" mitteret, prædictus Thomas
" nuper Prior, &c., in vita sua stag-
" num illud deexaltare non per-
" misit, nec prædictus Philippus
" nunc Prior, &c., adhuc non per-
" mittit, unde dicit quod deterior-
" atus est et damnum habet ad
" valentiam mille librarum, et
" inde producit sectam, &c."

¹ So in the roll:—" Prior
" petit inde visum. Habeat. Dies
" datus est eis hic a die Sanctæ
" Trinitatis in xv dies."
² From the four MSS., as above.
³ *Elegit* is from C. alone, from
which MS. *Nota* is omitted.

⁴ H., avereit.⁵ I., ne mye.⁶ C., demande vers.⁷ C., coment.⁸ I., soun.

No. 80.

A.D. King's grandfather, bound himself by their deed,
 1345-6. &c.—*Gaynesford*. You see plainly how this deed
 purports to be dated before the Statute of Carlisle
 made in the time of the King's grandfather, by
 which statute it was ordained that Abbots of the
 Cistercian Order should have a common seal¹; and
 before that time there was only the seal of the
 Abbot; and by his count he supposes that at the
 time at which the obligation was made it could be
 the deed of the Abbot and the Convent; judgment
 of the count.—This exception was not allowed.—
Grene. This is the deed of the Abbot, and not of
 the Abbot and Convent; ready, &c.—*STONORE*. I
 see plainly that you are teaching the Grey Friars
 how to plead, but you may rest assured that the
 Abbots of that Order used to bear the same seal
 of their House, and to bind the House.—*Grene*.
 Then let him aid himself in that way, and we will
 abide judgment with him on such matter.—*Pole*
 would not do this, but maintained that it was the
 deed of the Abbot and Convent; ready, &c.—And
 the other side said, on the contrary, that it was
 not their deed.

Avowry. (30.) § Avowry, in a place other than that as to
 which the plaintiff counted, for rent charge created
 by a specialty the date of which was in Wales.—
Skipwith. We must maintain, for issue of the plea

¹ 35 Edw. I. (De Apportis Religiorum), c. 4.

No. 30.

obligea par lour fait, &c.—*Gayn.* Vous veietz bien coment ceo fait purport date devant lestatut de Cardoil¹ fait en temps laiel le Roi, par quel estatut fut ordeigne² qe les Abbes³ del ordre de Cisteux averount comune seal; et devant cel temps ny avoit forqe le seal Labbe; et par soun count il suppose qe au temps del obligacion fait qe ceo purreit estre le fait Labbe et le Covent; jugement de count.⁴—*Non allocatur.*—*Grene.* Ceo est le fait Labbe, et noun pas del Abbe et le⁵ Covent; prest, &c.—*STON.* Jeo vie⁶ bien vous apernetz⁷ les griz moignes de pledere qe soietz certain qe les Abbes de cel ordre soleient porter mesme le seal de lour mesoun et lier la mesoun.—*Grene.* Soi eide donques par cele voie, et nous voloms demurer en jugement ove luy sur tiel matere.—*Pole* ne voleit, mes meintient qe ceo fut le fait Labbe et le Covent; prest, &c.—*Et alii, e contra,* qe nient lour fait.

A.D.
1345-6.

(30.)⁸ § Avowere, en autre lieu qe le pleintif ne *Avowere* counta, pur rente charge par especialte dount la date [Fitz., *Avowre*, fut en Gales.⁹—*Skip.* Il nous covient meyntener 127.]

¹ C., Cardoille.² C., ordeigne.³ I., Abbeys.⁴ The words de count are omitted from C.⁵ le is omitted from C.⁶ H., vey.⁷ C., appernetz.⁸ From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III, R^o. 266, d. It there appears that the action was brought by William le Yonge of Shrawardine against Thomas Lestraunge in respect of a taking of 200 "bidentes" and 100 "oves" "in villa de Urlesnesse in quodam loco qui vocatur Brome."⁹ The avowry was, according to the record, "quo ad captionem

"triginta bidentium et centum

"ovium de prædictis bidentibus et

"ovibus dicit quod ipse non cepit

"illos triginta bidentes et centum

"oves. Et quo ad captionem

"residuorum bidentium prædic-

"torum, videlicet centum sexa-

"ginta et decem bidentum dicit

"quod ipse cepit bidentes illas

"in quodam loco qui vocatur

"Brome in villa de Foxtone in

"Shrewardyneshome, et non in

"prædicta villa de Urlesnesse prout

"idem Willelmus superius queritur,

"et hoc paratus est verificare, &c.,

"sed pro retorno eorundem biden-

"tum habendo dicit quod idem

"Thomas alias apud Overtone

"Madoc, videlicet, in Festo Sancti

"Michaelis Archangeli anno regni

No. 30.

A.D. 1845-6. between us, the plaint to the effect that the taking was in the same place as to which we have counted; but his avowry made for the purpose of having the return in virtue of a specialty bearing date at a place where you have no jurisdiction, or power to take cognisance, will not be entered, as it seems to us.—HILLARY. Yes, it will be, and if the finding on the issue be in his favour, he will have

M. H. U.

A.D.
1845-6.

No. 30.

pur issue de plee entre nous et la pleinte en mesme
le lieu ou nous avoms counte; mes savowere pur
aver retourne par force despecialte portant date ou
vous navietz¹ jurisdiccion, ne poaire² a conustre, ne
serra pas entre a ceo qe nous semble.—HILL. Si
serra, et, si sa mise soit³ trove, il avera retourne.—

“domini Regis nunc decimo septimo,
“per quoddam scriptum inden-
“tatum concessit et dimisit præ-
“dicto Willelmo et heredibus suis
“ballivas bedeleris et forestariis
“de Maylors, cum pertinentiis,
“habendas et tenendas eidem
“Willelmo et heredibus suis ad
“terminum quatuor annorum
“proxime sequentium, reddendo
“inde per annum eidem Thomæ
“decem marcas ad Festa Annun-
“cationis beatæ Mariæ et Sancti
“Michaelis per sequales portiones,
“et prædictus Willelmus per idem
“scriptum indentatum concessit
“quod cum prædictus redditus
“decem marcarum eidem Thomæ
“a retro fuisse ad aliquem ter-
“minum pro firma ballivarum, &c.,
“tunc idem Willelmus concessit
“eidem Thomæ quendam annum
“redditum decem marcarum per-
“cipiendum de omnibus terris et
“tenementis ipsius Willelmi in
“Comitatu Salopie ad totam vitam
“ipsius Thomæ ad Festa Annun-
“cationis et Sancti Michaelis, per
“sequales portiones, et concessit
“quod si redditus ille eidem Thomæ
“sic concessus ad aliquem ter-
“minum a retro extitisset quod
“idem Thomas in omnibus terris
“et tenementis ipsius Willelmi
“distringere posset pro redditu
“prædicto, &c., ac idem Willelmus
“tempore confectionis scripti præ-
“dicti seisisitus fuit de duabus caru-
“catis terræ, cum pertinentiis, in
“Shrewardyne, una carucata terræ
“in Heptone in Straungeneshome,
“una carucata terræ in Alvertone,
“mediatae unius carucatæ terræ
“in Straungenesse, et de una caru-
“cata terræ, cum pertinentiis, in
“Foxtone in Shwardyneshome,
“de quibus quidem tenementis
“locus in quo, &c., est parcella, et
“de aliis terris et tenementis in
“Comitatu prædicto, et quinque
“marcas de termino Sancti
“Michaelis anno regni domini
“Regis nunc Angliæ decimo octavo
“de firma ballivarum, &c., eidem
“Thomæ a retro fuerunt, et quia
“quinque marcas de redditu sibi
“concesso ad terminum vitæ, &c.,
“de termino Annunciationis beatæ
“Mariæ anno regni domini Regis
“nunc Angliæ decimo nono eidem
“Thomæ a retro fuerunt ante diem
“captionis, &c., cepit ipse bidentes
“illos in prædicta villa de Foxtone
“in loco prædicto ut in parcella
“tenementorum sibi oneratorum
“in forma prædicta, sicut ei bene
“licuit. Et profert hic prædictum
“scriptum indentatum quod hoc
“testatur in hæc verba.” The deed
(in French) is then set out at length.
It purports to have been “escript
“a Overton Madoc.” The avowry
then continues, “unde petit
“judicium et returnum sibi
“adjudicari.”

¹ H., navetz.² H., poer.³ C., serra.

No. 31.

A.D.
1345-6. the return.—And the avowry was entered, and the parties were further at a traverse on the place of taking.

*Quare
impedit.* (31.) § The King brought a *Quare impedit* against the Bishop of Norwich, and counted that King John was seised, and presented, and gave the advowson to a Prior of St. Bartholomew in frankalmoign, to hold of him and his heirs, and that afterwards a Prior, without the King's license, and contrary to the law of the land, aliened the advowson to the Bishop's predecessor in mortmain, &c., and that therefore the right to present accrued to the King, &c. —*Rokel.* We tell you that King John had not anything in the advowson, and that his clerk was not admitted on his presentation (but that a clerk was

No. 81.

Et lavowere est entre, et outre les parties sount a A.D.
travers sur le lieu.¹ 1345-6.

(31.)² § Le Roi porta *Quare impedit* vers Levesqe de Norwycz,³ countant qe le Roi Johan fut seisi, et presents,⁴ et dona lavowesoun a Prior de Seynt Berthelmeu en fraunk almoigne, a tenir de luy et ses heirs, et qun Priour apres, saunz conge le Roi, et contre la ley de la terre, aliena lavowesoun al predecessor Levesqe en mort meyn, &c., par qui dreit de presenter acrust au Roi, &c.⁵—*Rokel*. Nous vous dioms qe le Roi J. navoit rienz en lavowesoun,⁶ ne celuy clerk resceu a soun presentement, einz al

¹ The plea, upon which issue was joined, was, according to the record, “ Willelmus le Yonge dicit quod prædictus Thomas Lestraunge captionem prædictam justam ad vocare non potest, quia dicit quod prædictus locus de Brome, in quo dicitur, est in villa de Urlesnesse, sicut ipse superius queritur, et non in prædicta villa de Foxtone in Shewardyneshome prout idem Thomas advocavit.”

The award of the *Venire* follows on the roll, but nothing further.

² From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o. 331, d. It there appears that the action was brought by the King against William, Bishop of Norwich, in respect of a presentation to the church of “Beltone juxta Jerne-“ muthe” (Belton-by-Yarmouth).

³ H., Norwiz; C., Northwike.

⁴ The words *et presents* are omitted from C.

⁵ The declaration was, according to the record, “ quod quidam Johannes quondam Rex Anglie, consanguineus domini Regis, fuit seisisus de advocatione ecclesie

“ prædictæ, et ad eam præsentavit quendam Petrum Buk, clericum suum, qui ad præsentationem suam fuit admissus et institutus, . . . post cuius mortem prædicta ecclesia modo vacat, &c., qui Johannes Rex advocationem illam dedit et concessit cuidam Priori de Sancto Bartholomæo in Smythefelde Londoniarum, tenendum sibi et successoribus suis in pura et perpetua eleemosyna in perpetuum. Et postmodum Prior Sancti Bartholomæi prædicti qui tunc fuit et ejusdem loci Conventus, tempore Regis avi domini Regis nunc, eandem advocationem alienavit cuidam Waltero tunc Episcopi Norwicensi, predecessori prædicti Episcopi nunc, sine licentia et voluntate ejusdem Regis avi, &c., per quod ius præsentandi ad eandem ecclesiam accrebit eidem Regi avo, &c. [The descent from Edward I. to Edward III. is then set out.] Et ea ratione ad dominum Regem nunc pertinet ad prædictam ecclesiam præsentare.”

⁶ C., lavowere.

No. 31.

A.D. admitted on the presentation of our predecessor), and
1845-6. that King John did not give as above, but we tell you
that we and our predecessors have been seised of
the advowson from time whereof there is no memory;
judgment whether the King will be answered
as to this writ.—*Thorpe*. Which plea among all
those do you give for answer to the King?—*Pole*.
It is necessary for us to have them all, because, if
we were to mention only one, you would fix it upon
us that we had not denied the other points.—
Thorpe. In God's name let their answer be entered.
—And so it was.—And they were adjourned, &c.¹

¹ For another report of the case | conclusion of the case as it appears
which is continued further, see | on the record, see p. 105 note 5
below, Easter, No. 37. For the |

No. 31.

presentement nostre predecessor, ne le Roi J. ne A.D.
1345-6.
 dona pas *ut supra*, mes vous dioms qe nous et noz
 predecessours avoms este seisi de lavowesoun de
 temps dount memore, &c.; jugement si le Roi a
 ceo brief voille estre respondu.¹—*Thorpe.* Quele plee
 de toux ceux² donez vous pur respons au Roi?—
Pole. Il nous covient aver toux, qar si nous parla-
 sons forqe dun, vous rlieretz sur nous qe nous
 ussoms pas dedit les autres pointz.³—*Thorpe.* De
 par⁴ Dieux soit lour respouys entre.—*Et ita est.*—
*Et adjournantur,*⁵ &c.

¹ The plea on behalf of the Bishop was, according to the record, "quod ipse seisisus est de advocatione ecclesie de Belton predicta ut de jure Episcopatus sui predicti, et ipse Episcopus et omnes praecessores sui Episcopi loci predicti, a tempore quo non extat memoria, semper seisisi fuerunt de eadem advocatione ut de jure ejusdem Episcopatus, &c., absque hoc quod predictus Johannes Rex, &c., seisisus fuit de advocatione illa, vel predictus Petrus admissus fuit et institutus in ecclesia predicta ad presentationem ejusdem Johannis Regis, &c., et absque hoc quod idem Johannes Rex ad advocationem illam dedit et concessit prefato Priori, vel quod predictus Prior eandem advocationem alienavit prefato Waltero Episcopo, &c., prout dominus Rex per demonstrationem suam predictam supponit. Et hoc paratus est verificare, &c."

² C., ces.

³ pointz is omitted from C.

⁴ H., part.

⁵ According to the roll there was an adjournment, as stated in the report. On the day given (the Quinzaine of Easter) "Quia visum

" est Curiae quod verificatio patris
 " super predictis quatuor responsali-
 " onibus non est admittenda,
 " dictum est prefato Episcopo
 " quod eligat unam de predictis
 " responsionibus, si, &c.
 " Etidem Episcopus, non cognos-
 " cendo quod predictus Johannes
 " Rex fuit seisisus de advocatione
 " predicta, nec quod idem Johannes
 " Rex advocationem illam dedit
 " prefato Priori, nec quod idem
 " Prior advocationem illam alien-
 " avit prefato Waltero Episcopo,
 " dicit quod predictus Petrus non
 " fuit admissus et institutus in
 " ecclesia predicta ad presenta-
 " tionem predicti Johannis Regis,
 " sicut dominus Rex nunc in
 " demonstratione sua supposit.
 " Et super hoc Johannes [de
 " Clone] qui sequitur, &c., dicit
 " Ex predictus Episcopus pro finali
 " responsione dedit quoddam re-
 " sponsum quod est multiplex, in
 " se continens diversas responsi-
 " ones peremptorias ad actionem
 " domini Regis, et sic dicta
 " responsio de jure non est admit-
 " tenda, et super qua responsione
 " idem Episcopus adjornatus fuit,
 " et postmodum plures dilationes
 " cepit, per quod variare a

No. 82.

A.D.
1845-6. Coven. (82.) § A writ of Covenant was heretofore brought, in respect of a term, by a lessee against a lessor. The defendant alleged that there were divers covenants limited between them by indenture relating to payment of rent and other matters, and justified his entry on the ground of breach of the conditions. The plaintiff alleged that he tendered the rent on the appointed day, and had been at all times ready to pay it, and also that he observed all the other covenants. And with regard to all the covenants broken and the non-tender of the rent they pleaded to issue to a jury. And the jurors now came, and said as to all the covenants that they had been observed, except the payment of the rent, and as to that they said that, whereas the plaintiff ought to have paid eight marks on the appointed day, he paid six marks on the day, but that he did not pay

No. 32.

(32.)¹ § Covenant autrefoith porte dun terme entre le lessour et le lesse. Le defendant alleggea divers covenantz taillez entre eux par endenture² de paientement de rente et d'autre chose, et pur enfreindre de les condicions avowa son entre. Le pleintif alleggea qil tendi la rente au jour assis, et tut temps fut prest, et auxint qil tient touz les autres covenantz. Et sur touz les covenantz enfreintz et sur la nient tendre³ de la rente descendirent en enquête, qe vint ore, et disoient quant a touz les covenantz⁴ qils furont tenuz, saufe paiement de la rente, et, quant a cel, la ou il dust aver paie viij. marcz au jour, ils disoient qil paia les vj. marcz au

A.D.
1345-6.
Covenant.
[Fitz.,
Jugement,
177.]

" responsione prædicta, et maxime
" postquam responsio sua tanquam
" invalida per ipsum dominum
" Regem calumniata fuit, admitti
" non debet, et ex quo idem Epis-
" copus modo primam suam
" responsionem in omnibus non
" prætendit verificare, sed plures
" verifications per ipsum Epis-
" copum superius prætensas modo
" non manutenet, petit judicium
" pro domino Rege, &c."

There was a further adjournment to the Octaves of Trinity, "ad quam diem idem Johannes "qui sequitur, &c., dicit quod ubi "prædictus Episcopus in re- "sponsione sua prædicta supponit "prædictum Priorem de Sancto "Bartholomæo non alienasse "advocationem prædictam præfato "Waltero Episcopo sine licentia "domini Regis, &c., idem Prior "alienavit eandem advocationem "prædicto Waltero Episcopo sine "licentia et voluntate domini "Regis, sicut Rex superius in "demonstratione sua supponit."

Issue was joined upon this.

After further adjournments a

verdict was found on the Octaves of St. Martin in the 21st year of the reign, "quod prædictus Prior non "alienavit advocationem prædictam "præfato Waltero Episcopo, tem- "pore prædicti Edwardi Regis avi "domini Regis nunc, nec unquam "postea, sicut dominus Rex in "demonstratione sua supponit. "Quæsitum est a præfatis juratori- "bus si aliquis Prior Sancti Bar- "tholomæi unquam fuit seisisitus de "advocatione prædicti et eam "alienavit. Dicunt quod quidam "Prior Sancti Bartholomæi aliquo "tempore fuit seisisitus de advoca- "tione prædicta et eam alienavit, "sed non tempore Edwardi Regis avi "domini Regis nunc, nec tempore "Edwardi patris, &c., nec tempore "domini Regis nunc. Quæsiti "tempore cuius Regis, &c., dicunt "quod ignorant."

There are several further adjournments, but nothing beyond.

¹ From the four MSS., as above.

² The words *par endenture* are omitted from C.

³ C., paier.

⁴ C., autres.

No. 33.

A.D.
1845-6. the other two marks, nor tender them, on the day; therefore, a long time afterwards, the defendant entered, by reason of the rent being in arrear, on a certain day before dinner; and after dinner on the same day the plaintiff came and tendered to the defendant the two marks, and the defendant refused them, and kept himself in possession of the land. And now the plaintiff also tendered the money in Court. And the COURT looked at the indenture, which purported that the lessor might enter, and hold until satisfaction had been made to him, &c. And he was asked by the COURT whether he would accept the two marks, and in the end he did accept them. Therefore judgment was given that he should recover the rest of the term which was yet unexpired (because the COURT understood that the term was still unexpired), and damages, &c. And afterwards they saw by the indenture that the whole term was ended, and therefore they gave judgment relating entirely to damages.—*Quære* as to this judgment, since with regard to the tender of the rent the reverse of the plaintiff's mise was found.—And observe that this judgment is much strengthened by the fact that the defendant now accepted the two marks.

Quare impedit.

(33.)¹ § The King brought a *Quare impedit* against the Abbot of Abingdon, counting that one J. was seised of the advowson, and presented, and that J. aliened the advowson to the Abbot without the King's licence. And it was heretofore pleaded for the Abbot (with a protestation, that he did not admit that this J. was seised of the advowson, nor the alienation, &c.) that the clerk whom the King counted to have been admitted on J.'s presentation was not admitted on J.'s presentation; and upon that the Bishop tendered averment for issue of

¹ For the commencement of this case and the record, see Y.B., Mich. 19 Edw. III., No. 77.

No. 33.

jour, mes les deux marcz il ne paia pas ne tendi
a cel jour ; par quei, grant temps apres, le defendant
entra pur la rente arrere a certain jour devant
manger ; et apres manger mesme le jour le pleintif
vint et luy tendi les deux marcz, et il les refusa,
et se tient einz en la terre. Et ore en Court le
plaintif tendist auxint les deners. Et la COURT vist
lendenture, qe voleit qil purreit entrer et retener
tanqe gree luy fut fait, &c. Et demande luy fut
par COURT sil voleit resceivre les deux marcz, et a
drein il les resceut. Par quei agarde fut qil
recoverast le remenant de terme qest a venir,¹ pur
ceo qe COURT entendist qe ceo ust este deinz le
terme unqore, et les damages, &c. Et puis virent
par lendenture qe tut le terme fut fini, par quei
ils agarderent tut en damages.—*Quære de isto
judicio*, depuis qen dreit del tendre de la rente le
revers de la mise del plaintif fut trove.—Et ride qe
le jugement est bien afforce de ceo qe le defendant
resceut ore les deux marcz.

A.D.
1345-6

(33.)² § Le Roi porta *Quare impedit* vers Labbe *Quare impedit.*
de Abyndone, countant qun J. fut seisi del avowe-
soun,³ et presenta, et qe J. aliena lavowesoun al
Abbe saunz conge le Roi, &c. Et autrefoith fut
plede, fesaunt protestacion pur Labbe qil ne conissat
pas celuy J. estre seisi del avowesoun, ne lalienacion,
&c., qe celuy clerk qe⁴ le Roi counta estre resceu
al presentement J. ne fut pas resceu al presentement
J.; et sur ceo Labbe tendi averement pur issue de

¹ H., venier.² From the four MSS., as above.³ The words del avowessoun are

omitted from C.

⁴ C., q.i.

No. 83.

A.D.
1345-6. the plea. And it was then replied for the King that, since the Abbot did not deny that J. was seised of the advowson, nor that he aliened it as above, which was the King's title in right, and since that title was not destroyed by such an answer, therefore judgment was prayed for the King, and a writ to the Bishop. And the Abbot then said that the writ of *Quare impedit* was a possessory writ, and that he had destroyed by this answer the possession from which the King took his title, and upon that he demanded judgment. And upon this they were adjourned until now.—*Derworthy*. It seems that the King is sufficiently answered since he could not have declaration or count without mentioning a presentation, and the presentation which he has taken for title of possession, without which he could not have counted, we have so traversed that our answer ought to suffice.—*Thorpe*. The alienation made by J. to the Abbot is the King's title, and that remains unanswered, and particularly with regard to this writ which is, in this action, both a writ relating to the possession and a writ relating to the right, because the King ought not to have any other writ on such matter. And, as to that which they say that the possession is destroyed by their answer, it does not seem to be so, inasmuch as, even without any presentation he could have possession in many ways, by purchase, or by descent, so that the King's title stands unanswered.—*STONORE* to *Derworthy*. Will you say anything else?—*Pole*. We tell you that the person whom they allege to have been admitted on J.'s presentation was admitted on the presentation of our predecessor, and we and our predecessors have held the advowson as appendant to the manor of B. from time whereof memory, &c., and that J. never had anything in the advowson, and that his

No. 38.

plee. Et adonques fut replie pur le Roi, del houre qe Labbe ne dedit pas qil fust seisi del avowesoun, ne qil aliena *ut supra*, quel¹ fut le title le Roi en dreit, et ceo ne fust pas destruit par tiel respons par quei jugement fut prie pur le Roi et brief al Evesqe. Et Labbe adonques dist qe ceo fut brief de possessioun, et la possessioun de quel le Roi prist son² title il avoit destruit par cel respons, et sur ceo demanda jugement. Et sur ceo furent ajournez tanqa ore.—*Der.* Il semble qe le Roi est suffisaument respondu del houre qil ne poait aver monstraunce ne counte saunz parler de presentement, et le presentement quel il ad pris pur title de possession, saunz quel il ne poait aver counte, si avoms traverse qe cella deit suffire.—*Thorpe.* Lalienacion de³ J. fet al Abbe est le title le Roi, quel demoert nient respondu, et nomement a cest brief qest en ceste accion et brief de possessioun et brief de dreit, pur ceo qautre brief ne deit⁴ le Roi aver sur tiel matere. Et a ceo qe ils parlent qe la possession est destruit par lour respons, ceo ne semble il pas, desicome tut saunz presentement il put aver la possession par moultz des voies, par purchace ou par descente, issint esta le title le Roi nient respondu.—*STON.* a *Der.* Voilletz autre chose dire?—*Pole.* Nous vous dioms qe celuy qils dient estre resceu al presentement J. fut resceu al presentement nostre predecessor, et nous et noz predecessours avoms tenu lavowesoun come appendant al maner de B. de temps dount memore, &c., et qe J. navoit unques rienz en lavowesoun ne son presente

¹ C., qe.² C., pur son.³ H. de quel.⁴ C., poet.

No. 33.

A.D.
1845-6. presentee was not admitted as above, and that he did not aliene; ready, &c.—*Thorpe*. You cannot be admitted to plead that, inasmuch as heretofore you definitely took a traverse for your answer to the King, and thereon abode judgment whether it could destroy the King's title or not, and upon that you are adjourned; to take now a new plea, and one contrariant to matter held as not denied by you by your first answer, you shall not be admitted, because by your first abiding of judgment John's seisin of the advowson and the alienation which you would now traverse must be held as not denied.—*Derworthy*. We heretofore made protestation that we do not admit this matter, and we now tender an averment to the same effect, as our protestation at that time saved to us the advantage of doing so; therefore you cannot fix upon us these matters as not denied except in the issue of the plea in case the reverse of our mise should be found.—*WILLOUGHBY, ad idem*. They hold to their first answer by way of traverse, and the rest of that which they say is only in order to have a writ to the Bishop.—*Grene*. It is not so, for they hold to it for issue of the plea; and that appears clearly when they put their statement by way of averment; and on behalf of the King we demand judgment absolutely whether they ought to be admitted to make any other answer than that which is entered on the roll, and upon which we have pleaded to judgment, and upon which we are adjourned.—*STRONORE to Pole*. We have looked at the roll, and at your plea on which you heretofore abode judgment, and we see that you cannot in any way be admitted to make any other answer than the first; therefore we hold you to be abiding judgment on the same point as you then were; but because we are not advised whether this averment

No. 88.

resceu *ut supra*, ne qil aliena pas ; prest, &c.—*Thorpe.*
 A ceo ne poietz estre resceu, desicomme autrefoith
 vous preistes en certeyn travers pur respons au Roi,
 et sur ceo demurastes en jugement le quel il purreit
 destruire¹ le title le Roi ou nient, et sur ceo estes
 ajourne ; ore de prendre novel plee et contrariaunt a
 chose tenu nient dedit de vous par vostre primer
 respons vous ne serrez resceu, qar par vostre primere
 demure en jugement covient tenir a nient dedit la²
 seisine Johan de lavowesotun et lalienacion quel
 vous vodrietz ore traverser.—*Der.* Nous feimes
 autrefoith protestacion qe nous ne conissons pas
 cele chose, quele nous tendoms ore daverer, issint
 qe nostre protestacion nous sauva adonques lavantage ;
 par quei vous ne poietz lier sur nous celes choses
 come nient dedites forgen issue de plee, qe
 revers³ de nostre mise⁴ fut⁵ trove.—*WILBY, ad idem.*
 Ils se tenent sur lour⁶ primer respons en travers,
 et le remenant ceo qils dient ceo nest forqe pur
 aver brief al Evesqe.—*Grene.* Il nest pas issi, qar
 ils le tendount pur issue de plee ; et ceo piert bien
 quant ils mettount lour dit en averement ; et nous
 demandoms jugement pur le Roi tut atrenche si a
 nul autre respons qe a cel qest entre en roulle, et
 sur quel nous sumes descendu en jugement, et sur
 quel nous sumes ajourne, sils⁷ deivent avener.—*STON.*
a Pole. Nous avoms regarde le roulle, et vostre
 plee sur quel⁸ vous demurastes autrefoith en
 jugement, et nous veioms qen nulle manere poietz
 avenir a autre respons que le primer ; par quei
 nous vous tenoms en mesme le point qe adonques
 fuistes⁹ ; mes pur ceo qe nous ne sumes pas avise
 si cel averement soit receivable ou nient en

A.D.
1345-6.¹ H., and I., destrure.⁶ All the MSS. except C., le.² H., and I., de la.⁷ C., qils.³ C., le revers.⁸ C., quei.⁴ H., and I., title.⁹ H., futes.⁵ H., and I., nulle fut.

No. 34.

A.D.
1345-6. is admissible or not in this case, keep your days
at the Quinzaine of Easter, &c.¹

Dower. (34.) § Dower. The tenant vouched to warrant the husband's heir, who was in the wardship of the defendant, and she appeared, by attorney, to a summons, as the person who was vouched, and she said by *Gaynesford* that she had nothing of the heir's inheritance in wardship, nor had she on the day of the voucher, and she demanded judgment of the voucher.—And the woman in her own person prayed her dower.—*Birton*. She had and has sufficient; ready, &c.—*Gaynesford*. You will not have the averment in this case, because the voucher is in the same county.—HILLARY. Is it not right that, when you yourself plead in abatement of the voucher, you should be delayed as to your dower, until this be tried? For in case you have sufficient you will recover against yourself, and the tenant will hold in peace.—*Gaynesford*. That is true; such will be the judgment; and therefore the judgment will be rendered at once conditionally, because the averment, since the voucher is in the same county, will serve for nothing.—And afterwards the COURT gave

¹ The report is continued in Y.B., Easter, 20 Edw. III., No. 50, and Mich., No. 74.

No. 34.

ceo cas, gardez voz jours a la xv^e de Pasche, A.D.
 &c.¹ 1345-6.

(34.)² § Dowere. Le tenant voucha a garrant Dowere. leire le baron en la garde la demandante, et ele vint par somons par attourne,³ come cele qe fut vouche, et dit par *Gayn.* qele navoit rienz en garde, ne navoit jour de voucher, del heritance leire, et demanda jugement del voucher.⁴—Et la femme en propre personne pria soun dowere.—*Birtone.* Ele avoit et ad assetz; prest, &c.⁵—*Gayn.* Vous naveretz pas laverement en ceo cas, qar le voucher est en mesme le counte.—*HILL.* Nest il pas resoun, quant vous mesmes pledetz al abatement de voucher, qe vous soietz delaye de vostre dowere, tanqe ceo soit trié? Qar en cas qe vous eietz assetz vous recovrerez vers vous mesmes, et le tenant tendra en pees.—*Gayn.* Il est verite; le jugement serra tiel; et pur ceo serra le jugement rendu maintenant sur condicion, qar laverement, del heure qe le voucher est en mesme le counte, servira de nient.—Et puis

¹ In C. there are added the words
Quare principium supra.

² From the four MSS., as above, but corrected by the record, *Placita de Banco*, Hil., 20 Edw. III., R^o 406. It there appears that the action was brought by Matilda, late wife of Hugh le Warener of Reigate, against John le Skynner of Reigate, in respect of a third part of three acres of land and three acres of wood in Reigate (Surrey), and against William le Baker of Reigate, in respect of a third part of three acres of land and three acres of wood in Reigate. Both tenants alleged that the tenements were less in quantity than supposed by the demandant, and each severally vouched to warrant Richard son and heir of the aforesaid Hugh,

“cujus corpus et terræ sunt in
 “custodia prædictæ Matildis,
 “matris ipsius Ricardi, ratione
 “nutrituræ, &c.”

³ The words par attourne are from C. alone.

⁴ According to the record the demandant “non potest dedicere
 “quin prædictus heres tenetur eis
 “tenementa prædicta warrantizare,
 “sed dicit quod ipsa nihil habet
 “in custodia de hereditate præ-
 “dicti Ricardi, &c.”

⁵ According to the record, “præ-
 “dicti Johannes et Willelmus
 “dicunt quod prædicta Matildis
 “habet in custodia terras et tene-
 “menta de hereditate prædicti
 “heredis ad sufficienciam, &c.,
 “unde, &c.

No. 85.

A.D. 1845-6. judgment that the defendant should recover against herself if she had sufficient in wardship of the heir's inheritance, and if not against the tenant, and he over against the heir, when, &c.

Liberty. (85.) § The privilege of a liberty was demanded by the bailiffs of a town, that is to say, to have cognisance of a plea before themselves, and they alleged allowance of cognisance on a previous occasion, and produced a charter of their liberty and a writ to allow it. And because the charter purported only that King John had granted that the townsmen should not be impleaded or implead in respect of contracts, covenants, trespasses, or tenures within the town, anywhere except in the town itself, and it did not mention before whom the pleas were to be held, the Court would not grant them cognisance, nor allow the liberty. For *Thorpe* said that, in case of Assises, upon such a franchise, the Justices who could sit in what court in the county they might please would allow the franchise with regard to the place, and would themselves go into the liberty, and hold the plea; but the Justices of the Court of Common Pleas must hold the pleas in a certain court, and cannot make such allowance of cognisance, and therefore the charter is void, because cognisance is not taken away from the King's Court.

No. 95.

la COURT agarda qe la demandante recoverast vers A.D. 1345-6.
luy mesme, si, &c., et si noun vers le tenant, et il
outre quant, &c.¹

(35.)² § Fraunchise fut demande par baillifs dune Fraun-
ville pur aver la conissaunce devant eux mesmes,³ [Fitz.,
et alleggerent allowaunce autrefoith, et moustra⁴ Graunte,
chartre de lour fraunchise et brief dallowere la. Et
pur ceo qe la chartre ne voleit mes qe le Roy
Johan avoit⁵ graunte qils ne serrount nulle part
empledes nenpledreint des contractz, covenantz,
trespas,⁶ ne des tenures⁷ deinz la ville forgen la
ville,⁸ et ne dit pas devant qi a tenir, la COURT ne
voleit pas granter a eux la conissance, ne allowere
la fraunchise. Qar Thorpe dit qen cas Dassise sur
tiel fraunchise les Justices qe pount seer en quel
place qils volent de counte allowerent la fraunchise,
quant au lieu, et irrent mesmes deinz la fraunchise
et tiendrent le plee⁹; mes les Justices de la comune
place covient tenir les plees en certain place, et ils
ne pount pas faire tiel allowaunce, par quey la
chartre est voide, pur ceo qe la conissaunce nest
pas ouste de la place le Roi.¹⁰

¹ According to the roll :—“ Et
“ eadem Matildis petit dotem sibi
“ adjudicari, &c. Ideo considera-
“ tum est quod, si prædicta Matill-
“ dis satis habeat in custodia de
“ hereditate prædicti heredis quæ
“ ei descendit in feodo simplici
“ post mortem prædicti Hugonis
“ patris sui, tunc eadem Matildis
“ habeat inde dotem suam, et præ-
“ dicti Johannes et Willelmus
“ teneant in pace. Et, si quid ei
“ inde defuerit, id habeat de præ-
“ dictis tenementis versus prædictos
“ Johannem et Willelmum petitis,
“ &c. Et iidem Willelmus et
“ Johannes habeant de terra præ-

“ dicti heredis ad valentiam, &c.

“ Et prædicta Matildis in miseri-
“ cordia, &c.”

² From the four MSS., as above.

³ The marginal note is omitted
from C.

⁴ So in all the MSS.

⁵ C., les avoit.

⁶ C., trans.

⁷ H., and I., ou detenues, instead
of ne des tenures.

⁸ The words forgen la ville are
from C. alone.

⁹ C., les plees, instead of le plee.

¹⁰ The words le Roi are omitted
from C.

Nos. 36-39.

A.D.
1345-6.
Fine.

(36.) § *Birton* came to the bar and drew a fine in the following manner:—Three husbands and their wives acknowledged the tenements, &c., to be the right of the conusee, and released to him for themselves and the heirs of two of the wives; and they all and the heirs of the two wives warranted. And the fine was admitted. And the three wives were mother and two daughters.

Quid juris clamat. (37.) § Two persons sued a *Quid juris clamat*. One of them did not appear.—*Thorpe* demanded judgment since this suit cannot be severed: for the defendant shall not be put to claim against them severally, and consequently the nonsuit of one is the nonsuit of all. And this was the opinion of the COURT; and therefore the one who appeared was nonsuited.

Essoin. (38.) § A writ was sued for the King for that he had recovered a presentation to the church of C. against the Prior of S., and in virtue of that recovery he had presented one J. Thereupon the defendant had sued an Appeal against the said J. to the Court of Rome in respect of the same church to the hindrance of the execution of the judgment for our Lord the King, and in contempt, &c. And this writ was a *Pone per vadium*. The Sheriff returned that he had nothing, and was not found. And on that writ he was essoined, and, because the writ was not served, the eession was quashed, and a *Capias* was awarded. And a like writ to another Sheriff was sued, and he returned pledges, and upon that writ the defendant was essoined and adjourned over, &c.

Essoin. (39.) § The attorney of one J. was essoined, and this same J. prayed to be admitted to defend his right on another writ.—*Richemunde* prayed that J.'s presence

Nos. 86-89.

(36.)¹ § Birtone vient a la barre et tret un fine A.D. 1345-6.
 en tiele manere :—iij barouns et lour femmes *Finis.*
 conissoont les tenementz, &c., estre le dreit, &c., et
 ceo lui relesserset de eux et des heirs les ij
 femmes; et eux touz et les heirs les deux femmes
 garrauntirent. Et resceu. Et les ij femmes furent
 la mere et les ij filles.

(37.)² § Deux suyrent un *Quid juris clamat.*³ Lun *Quid juris clamat.*
 ne vint pas.—*Thorpe* demanda jugement del houre [Fitz.,
 qe ceste sute ne poet pas estre severe: qar il ne *Severauns.*
 serra pas mys a clamer severalement a eux, et par 17.]
 taunt la nounsute lune est la nounsute de touz.
 Et ceo fust lentendement de COURT; par quey
 lautre fut nounsuy.

(38.)² § Un brief fust suy pur le Roi de ceo *Essone.*
 qil avoit recoveri un presentement al eglise de C. [Fitz.,
Exone, vers le Priour de S., et par force de cel recoverir 24.]
 il avoit presente un J. La avoit le defendant suy
 appel vers le dit J. a la Court de Rome de mesme
 leglise en desturbation del execucion de jugement
 nostre seignur le Roi, et en despite, &c. Et ceo
 brief fut un *Pone per vadium.* Le Vicounte retourna
 qil navoit rienz, ne fut pas trove.⁴ Et a cel brief il
 fut essone, et pur ceo qe le brief ne fut pas servy
 lessone fut quasse, et *Capias* agarde. Et autiel brief
 fut suy al autre Vicounte qe retourna plegges, et a
 cel brief il fut essone et ajourne outre, &c.

(39.)² § Lattourne un J. fut essone, et mesme *Essone*
 celuy J. pria destre resceu a defendre son dreit en [Fitz.,
Essone un autre brief.—*Rich.* pria qe la presence J. fut 25.]

¹ From H., and I., this and the following cases in the term, except No. 41, being omitted from L. and C.

² From H. and I.

³ I., *Quid juris clamat* fut porte, par deux, instead of Deux suyrent un *Quid juris clamat.*

⁴ H., servy.

Nos. 40, 41.

A.D.
1345-6. might be recorded, and that the essoin cast for his attorney might be quashed.—And so it was.

Account. (40.) § *Moubray* counted, on a writ of Account, of a receipt of money partly in York and partly at Ripon. And in respect of the receipt at York the bailiffs of the town prayed cognisance of the plea; and in respect of the receipt at Ripon the bailiffs of the Archbishop of York prayed cognisance. And the COURT was minded to abate the writ, because they could not grant the cognisance by parcels. Therefore the plaintiff afterwards assigned the receipt entirely in Ripon, and cognisance was granted to the Archbishop's bailiff. And the person against whom the writ was brought had previously brought a writ of Account against the present plaintiff, and now alleged that he had been excommunicated, and made *prosper* of the Archbishop's letter of excommunication, and (said the defendant's counsel) we do not understand that he ought to be answered.—*Skipwith*. You shall not be admitted to say that, because you have counted against me as against a person who is competent to answer, and consequently entitled to be answered.

Note. (41.) § Note that a woman brought a writ against two persons by several *Præcipes*, and one of the two pleaded to the inquest. And afterwards at *Nisi prius* in the country nonsuit was recorded on that *Præcipe*, and in the Common Bench judgment was rendered on the nonsuit with regard to the whole writ.—See above for like matter.

Nos. 40, 41.

recorde, et qe lessone gettu pur son attourne fut A.D.
quasse.—*Et ita fuit, &c.* 1345-6.

(40.)¹ § *Moubray* counta en brief Dacompte de *Acompte*.
resceite partie en Everwyke et partie a Ripoun. Et *Fitz., Conu-*
del receite a E. les baillifs de la ville demanderent *savns,*
la conissaunce; et de la resceite a Ripoun les
baillifs Lercevesqe de E. demanderent la conissaunce.
Et la COURT fut del entente daver abatu le brief,
pur ceo qils ne purreint graunter la conissaunce
par parcelles. Par quei apres il assigna tut la
receite en R., et la conissaunce graunte al bailiff
Lercevesqe. Et celuy vers qi le brief est porte
autrefoith porta un brief Dacompte vers celuy qest
ore pleintif, et ore il allegge qil fut escomenge, et
myst avant la lettre Lercevesqe, et nentendoms qil
dust estre respondu.—*Skip.* A ceo navendretz pas,
qar vous avetz counte vers moi come vers homme
qe purra respoudre, *per consequens* responsable.

(41.)² § *Nota* qune femme porta brief vers deux *Nota.*
par severals *Præcipe*, dount lun pleda al enquête. *Fitz., Nonsuit,*
Et al *Nisi prius* puis en pays la nounsuite en cel [26]
Præcipe fuit recorde, et en Bank jugement rendu sur
la nounsuite a tut le brief.—*Vide de tali materia*
supra.

¹ From H., and I| ² From C. alone.

EASTER TERM
IN THE
TWENTIETH YEAR OF THE REIGN OF
KING EDWARD THE THIRD.

EASTER TERM IN THE TWENTIETH YEAR OF
THE REIGN OF KING EDWARD THE THIRD.

No. 1.

A.D. 1346. (1.) § John Foleville, and his wife, and two other Assise of husbands, and their wives brought an Assise of Novel Novel Disseisin against a woman in the county of L., before THORPE. The tenant said, by *Grene*, that there ought not be an Assise, because he said that the tenements had been in the seisin of one G., who took to wife one A., by whom he had issue two daughters, to wit, the wife of John the plaintiff, and the wife of the second plaintiff. A. died; G. took another wife, B., on whom he begot the wife of the third plaintiff; and afterwards a divorce was effected between G. and B. for a certain cause; thereupon G. took to wife the present tenant by whom he had issue a son R. This G. died seised of the same land, and after his death the Abbot of Peterborough, of whom the said land was holden by knight service, seised the wardship by reason of the non-age of the said R. And those who are plaintiffs, claiming to have the land by succession of inheritance, on the ground that they were daughters, abated on the possession of the said R., and the Abbot, as guardian, ousted them. And afterwards the Abbot assigned these same tenements [to the defendant] to hold in dower, in satisfaction, &c., and (said *Grene*) we demand judgment whether they ought to have an Assise in respect of such an estate.—*Skipwith*. Sir, you see plainly how they rely upon two distinct matters; one is that

DE TERMINO PASCHÆ ANNO VICESIMO REGNI
REGIS EDWARDI TERTII.¹

No. 1.

(1.)² § Johan Foleville, et sa femme, et ij autres A.D. 1346. barouns, et lour femmes porterent une Assise de *Assisa Novæ Disseisinae* novele disseisine vers une femme en le counte de L., devant THORPE. Le tenant dit, par *Grene*, qe Assise ne doit estre, qar il dit qe les tenementz furount en la seisin un G., qe prist a femme une A., de qi il avoit issue ij filles, saver, la femme J. le pleintif, et la femme le secunde pleintif. A. murust; G. prist autre femme, B., de qi il engendra la femme le terce pleintif; et puis divors³ se prist entre G. et B. par certeyne cause; par quei G. prist a femme celuy qore est tenante, de qi il avoit un fitz R.; le quel G., murust seisi de mesme la terre, apres qi mort Labbe de Burgh Seynt Pierre, de qi la dite terre fut tenu par service de chivaler, sesist la garde par resoun del nounage le dit R. Et ceux qe sount pleintifs, clamantz⁴ daver la⁵ terre par succession deritage,⁶ la ou ils furent filles, abatirent sur la possession le dit R., et Labbe come gardeyn les ousta. Et puis Labbe assigna mesmes ceux tenementz a tenir en dowere en allowaunce &c., et demandoms jugement si de cel estat ils duissent⁷ Assise aver.—*Skip*. Sire, vous veetz⁸ bien comment ils relient sur deux choses; lun est de ceo

¹ The reports of this term are from the Lincoln's Inn MS. (called L.), the Harleian MS., No. 741 (called H.), the Cambridge MS., Hh. 2, 3 (called C.), and the Isham transcript.

² From H., and L. In I. the case is placed in Hilary Term next preceding.

³ I., divorce.

⁴ I., clamant.

⁵ I., la dite, instead of daver la.

⁶ I., de heritage.

⁷ I., dussoint.

⁸ I., veietz.

No. 1.

A.D. 1346. the defendant is tenant in dower to which she had become entitled at an earlier time, the other is the privity of blood between us and R., and the ouster by him, in which case, even though we might be able to aver that R. was a bastard, she would rely upon the argument against us that she is tenant in dower to which she became entitled at an earlier time, and would thereby bar us from Assise; and, moreover, even though we might be able to destroy her alleged tenancy in dower, that would not suffice for us without affirming the admitted possession; and therefore we pray the Assise.—*R. Thorpe*. It is not so: for when I have claimed my tenancy in dower, in the right of R., when if it were not in his right it would be in your right, and you could aver that R. was a bastard, that would suffice for you; for, if we claim to hold in the right of one who has not any right, we have forfeited our dower for ever; therefore an issue on the point will suffice for you; therefore, &c.—*Skipwith*. Then the force of your bar is the privity of blood, and the possession admitted to have been ours on another estate, and the ouster, which matters do not lie in your mouth, since your estate is not of R.'s estate, but of an estate which is tantamount to a defeasance of R.'s estate. And, moreover, since you claim dower in right of another, your conclusion ought to be that you will be ready to be attendant to whomsoever the Court may so adjudge, and not to plead the matter by way of bar. But it would be otherwise if we were the person in whose right you claim to hold, in which case you would plead in bar; therefore, &c.—*Grene*. If you were to bring a writ of Waste against me, supposing that I held in dower of your inheritance, and I were to show forth the matter that I now do, that is to

No. 1.

qe ele est tenante en dowere dun eisne temps A.D. 1346
deservi, un autre la private de saunke¹ entre nous
et R., et louster par luy, en quel cas, mesqe nous
purroms averer qe R. fut bastarde, ele² reliereit sur
nous quele est tenante en dowere deigne³ temps
deservi, et par tant nous barrer dassise; et auxi,
mesqe nous purroms destrure sa tenance en dowere,
ceo nous suffiereit pas saunz affermer la possession
conu; par quei nous prioms Lassise.—[R.] Thorpe.
Il nest pas issi: qar quant jai⁴ clamé ma tenance
en dowere en le dreit R., la ou sil ne fut il
serreit⁵ en vostre dreit, et vous purrez⁶ averer qe
R. fust bastarde, il vous suffireit; qar, si nous
clamoms a tenir en le dreit celuy qe nad pas dreit,
nous avons forfait nostre dowere a touz jours; par
quei un issue sur le point vous poet suffire; par
quei, &c.—Skip. Donques la force de vostre barre est
la private de saunke, et la possession conu a nous
sur autre estat, et louster, queles choses ne gisent
pas en vostre bouche, puis qe vostre estat nest pas
del estat R. [mes dun estat qe amounte en
defesaunce del estat R.].⁷ Et auxi, puis qe vous
clametz dowere en autri dreit, vostre conclusion
serra qe vous serretz⁸ prest destre entendant a qi
qe la Court agarde, et ne mye a pleder la chose
par voye de barre. Mes autre serreit si nous
fuissoms celuy en qi dreit⁹ vous clametz a tenir,
en quel cas vous pledrez en barre; par quei, &c.—
Grene. Si vous portassez¹⁰ un brief de Wast vers
moi, supposant qe jeo tenisse¹¹ en dowere de vostre
heritage, et jeo moustrace la matere qe jeo face a

¹ I., saung.² H., R.³ I., de eisne.⁴ I., jeo ay.⁵ L., serra.⁶ L., purrieta.⁷ The words between brackets
are omitted from I.⁸ I., estes.⁹ I., autre dreit.¹⁰ I., portastes.¹¹ I., tenuisse.

No. 1.

A.D. 1346. say that the reversion was to R., as above, I should put you to answer to his existence, so that you would not have the general averment that we hold of your inheritance; so also in this case, since your writ is general, and I have admitted an inheritance in you on the supposition that R. has not any existence, but that fact I shall have by surmise on this original, since your title depends on the possession of each. And as to your statement that it does not lie in our mouth to allege privity of blood, it does so lie, because we show that our estate is dependent on the estate of the person who was the common ancestor, and that by title from him; for if tenant by the courtesy of England be ousted by his wife's brother, and he oust that brother afterwards, he can well plead in bar on the ground that the brother claims to be heir to his wife, whereas she had a son, thus abating on his possession, and that he ousted the brother, because he admits an inheritance in the brother on the supposition that there is not in existence any son to hold to his right; so also in this case.—*Haveryngton*. As to the writ of Waste of which you speak, the writ is of one form for purchaser and for heir alike, and therefore what you say would not be a plea; and, even though it could be, inasmuch as by the writ he supposes inheritance in himself, it is a sufficient answer to show the contrary; but in this case you do not affirm your estate to be through the person who entered, but rather in defeasance of his estate; therefore it does not lie in your mouth to allege ouster effected on us by a stranger, on whom your estate is not dependent. And, as to the other point, tenant by the courtesy of England has possession immediately after the death of the wife, without demanding it of anyone; therefore whosoever enters

No. 1.

ore, saver, qe la reversion fut a R., *ut supra*, jeo A.D. 1346.
 vous mettroi de¹ respoudre a² soun estre, si qe
 vous naverez averement general qe nous tenoms de
 vostre heritage; auxi en ceo cas, puis qe vostre
 brief est general, et jeo vous eye conu un enheri-
 taunce si lestre³ R. ne fust, quele chose averay par
 surmis en ceste original, puis qe vostre title est de
 chescune possession, &c. Et a ceo qe vous parlez
 qil ne gist pas en nostre bouche dallegger la privete
 de saunke, si fait, qar nous mostroms qe nostre
 estat est dependaunt del estat celuy qe fut comune
 auncestre, et ceo par title de luy; qar si tenant
 par la leye Dengleterre soit ouste par le frere sa
 femme, et il le ouste apres, il pledra bien en barre
 par taunt qil cleyme destre heir a sa femme, la ou
 ele avoit fitz, abatant⁴ sur sa⁵ possession, et il
 luy ousta pur ceo qil luy conust une enheritaunce si
 lestre³ le fitz ne fust a tenir a soun dreit; auxi
 en ceo cas.—*Har.* Al brief de Wast qe vous parlez le
 brief est tut dun forme pur purchaceour et pur heir,
 par quei il ne serra pas plee; et mesqil serra, pur
 ceo qe par⁶ le brief il suppose enheritaunce en luy, il
 suffist de moustrer⁷ le contrare; mes en ceo cas
 vous naffermetz pas vostre estat par celuy qe⁸
 entra, mes pluis toust eu defesaunce de son estat;
 par quei dallegger ouster fait a nous par estraunge,
 de qi⁹ vostre estat nest dependaunt, ne gist pas en
 vostre bouche. Et al¹⁰ autre point, tenant par la
 ley Dengleterre ad la possession immediatez apres
 la mort la femme, saunz le demander de nulluy¹¹;
 par quei qi qe entre sur sa⁵ possession il luy

¹ I., a.⁷ I., conustre.² I., en.⁸ H., qi.³ H., le estre.⁹ I., par quei, instead of de qi.⁴ H., abaty.¹⁰ I., del.⁵ I., la.¹¹ I., nulluy.⁶ par is omitted from L.

No. 1.

A.D. 1346. upon his possession commits a tort against him; but tenant in dower who can have her dower only by demanding it, and not by entry, cannot allege an ouster effected by a stranger, as one who holds by the courtesy of England can that a stranger ousted himself.—W. THORPE. Will you say anything else in order to arrive at the Assise?—R. Thorpe. Sir, we understand that on the manner of his abiding judgment he will not be admitted to any other answer, because they are adjourned on that point.—THORPE (JUSTICE). If they say anything else, it will then have to be seen whether they shall be admitted or not; therefore, &c.—Skipwith. We have nothing else to say, but we pray the Assise.—SHARSHULLE. As properly as the inheritance by law descends to the heir after the death of the ancestor, so properly would her dower accrue to a wife; and then the elder will plead in bar against the younger by reason of the equal privity which exists between them and the common ancestor, and not by reason of the privity which there is between themselves, for the mulier will plead in bar against the bastard, and also one brother of the half-blood will plead in bar against the other by reason of the privity which is supposed between them and the common ancestor; now, even though the woman cannot make herself privy to the plaintiff, yet, since her dower would accrue to her by law as much as the two parts of the inheritance would to the heir, that privity between the common ancestor and her gives her the advantage of pleading in bar.—Skipwith. The cases are not alike, for where the brother of the half-blood pleads in bar he confesses an ouster effected by himself, in respect of which ouster it can be understood that the Assise is brought; but now she alleges an ouster effected by a guardian on whom her estate is not dependent, but it is dependent on the estate of her

No. 1.

fait tort; mes tenante en dowere qe lavera forqe A.D. 1346.
par demander, et ne my par entre, ne poet allegger
ouster fait par estraunge persone come poet celuy
tenant par la ley Dengleterre qe lousta mesme.—

W. THORPE. Volletz¹ autre chose dire pur carier al
Assise.—R. Thorpe. Sire, nous entendoms qe sur la
manere de sa demure qe il navendra a nulle autre
respons, puis qe sur le point ils sount adjournes.—
THORPE (JUSTICE). Sils dient autre chose, donques est
ceo a veer sils avendront; par quei, &c.—Skip.
Nous navoms autre chose a dire, mes prioms Lassise.

—Schs. Auxi proprement come² par ley apres la
mort launcestre leritage³ descend al heir, auxi
proprement acrestereit a la femme daver son⁴
dowere; et puis⁵ leisne pledra en barre vers le
puisne pur la privete owele qe demoert entre eux
et le comune auncestre, et ne mye pur⁶ la privete
qe est entre eux, qar le mulire pledra en barre
vers le bastarde, et auxi lun frere de demy⁷ saunk
pledra en barre devers lautre pur la privete qest
suppose entre eux et le comune auncestre; ore,
mesqe la femme ne se poet pas faire prive al
pleintif, puis qe son dowere luy acrestereit par ley
auxi bien come les ij parties al heir, cele privete
entre le comune auncestre et luy la doune avantage
de pledre en barre.—Skip. Ils ne sount pas
semblables, qar la⁸ ou le frere de demi saunke
pledre en barre il conust un ouster fait par luy, et
de quel ouster poet estre entendu qe Lassise est
porte; mes ore⁹ ele allegge ouster fait par gardeyn
de qi soun estat nest pas dependant, mes del estat

¹ I., volletz.

⁶ H., sur.

² come is omitted from H.

⁷ I., dreit.

³ I., le heritage.

⁸ la is omitted from H.

⁴ son is omitted from I.

⁹ ore is omitted from I.

⁵ H., puisque.

No. 2.

A.D. 1346. husband ; therefore it cannot be supposed that the Assise is brought against her in respect of an ouster acknowledged by a stranger ; therefore, &c.—
HILLARY. A feoffee enfeoffed by an elder brother will plead in bar against the younger in respect of the ouster ; but if the younger can aver that the alleged feoffee had nothing by feoffment from the elder, that deprives him of his plea in bar ; so also in this case.—And afterwards the plaintiff was nonsuited, &c.

Waste. (2.) § A writ of Waste was brought against R. Fitz Payn and E. his wife. They pleaded :—No waste committed. At *Nisi prius* the husband made default. The Justices took the inquest, by which the waste was found. And now, in the Common Bench, the plaintiff prayed judgment. The wife prayed to be admitted, &c.—*Grene*. Since the inquest has passed in our favour, and in the country you did not pray to be admitted to defend your right, you have come too late. And, moreover, if an Assise of Novel Disseisin be brought against husband and wife, and [this Assise has been awarded] on their default, and the Assise remains to be taken for want of jurors, the wife will not be admitted on a subsequent day ; nor consequently will she in this case.—**SHARSHULLE**. That is not a like case ; for in case of Assise the husband has not a day in Court, but in this case the husband has now a day in Court, because the *Nisi prius* gives him a day on this present day unless the Justices come in the country. And, moreover, even if she had come and prayed to be admitted in the country, the Justices would not have been able to record the fact ; therefore let her be admitted.—And she pleaded :—No waste committed.—And the plaintiff prayed a day of grace.—**SHARSHULLE**. The husband holds by barony, and therefore you cannot have it.—*Thorpe*. The husband is out of Court, and therefore, &c.—**SHARSHULLE**. Nevertheless

No. 2.

soun baron; par quei del ouster conu par estraunge A.D. 1346.
 ne poet estre suppose qe Lassise luy soit porte;
 par quei [&c.].—HILL. Le feffe par le frere eisne
 pledra en barre vers le puisne par louster¹; mes
 si lautre purra averer qe il avoit rienz de son
 feffement il luy toude le plee en barre; auxi yey.—
 Et puis le pleintif fuist nounsuy, &c.

(2.)² § Brief de Wast porte vers R. fitz Payn et Wast.
 E. sa femme. Ils plederent nul wast fait. Al *Nisi Resceit,*
prius le baron fit defaute. Les Justices pristent^[Fitz., Resceit, 16.]
 lenqueste, par quele le wast fust trove. Et ore en
 commune Baunk le pleintif pria jugement. La femme
 pria destre resceu, &c.—*Grene*. Puis qe lenqueste
 est passe pur nous, et en pays vous ne priastes
 pas, vous estes venu³ trop tard. Et auxi si Assise
 de novele disseisine soit porte vers le baron et sa
 femme, et par lour defaute, lassise remeint a prendre
 par defaute des jurours, a lautre jour la femme ne
 serra pas resceu; *nec per consequens hic*.—SCHS.
Non est simile; qar en cas Dassise le baron nad
 pas jour en Court, mes en ceo cas le baron ad jour
 en Court a ore, qar le *Nisi prius* luy doune jour a
 ore si les Justices ne veignent en pays. Et auxi
 mesqe el ust venu en pays [et prie destre resceu]⁴
 ils ne purront recorder; par quei soit resceu.—Et
 ele pleda nul wast fait.—Et le pleintif pria jour de
 grace.—SCHS. Le baron tient par barone, par quei
 vous nel averetz pas.—*Thorpe*. Il est hors de
 Court, par quei, &c.—SCHS. Nequident la perde

¹ I., le ouster.

² From L., and I. In I. the case is placed in Hilary Term next preceding.

³ I., venuz.

⁴ The words between brackets are omitted from H.

Nos. 3, 4.

A.D. 1346. the loss will fall upon him; we will consider.—And afterwards he had only a common day.

Dower. (3.) § Writ of Dower. The husband's heir, who was out of wardship, was vouched by a wife who was admitted to defend her right by reason of her husband's default. The Sheriff returned that he had nothing whereby he could be summoned. The vouchee was under age, and appeared, and entered into warranty, as one who had nothing by descent, &c., and rendered dower, &c. The wife was essoined; and, because no mention was made in the essoin of the fact that she had been admitted to defend her right, the essoin was quashed. And the wife's attorney proffered himself, and said, by *Birton*, that, since the Sheriff had returned no summons made upon the infant, he should not be admitted to warrant, or to render dower.—**SHARSHULLE.** Is he the same person as the person who is vouched, or not?—And because he did not deny that it was the same person that was vouched, judgment was given that the defendant should recover her dower against the heir if he had assets, and, if not, against the tenant, and the tenant over.

Appeal. (4.) § A citizen of London sued an Appeal of Robbery, and said that if the defendant would deny the robbery, he was ready to deraign it by his body against the man, and the man thereupon waged battle. The plaintiff said that the citizens of London have a franchise such that no battle shall be waged against any one of them, wherever the felony may be supposed to have been committed; and he said that he was a citizen, and demanded judgment whether the defendant should be admitted to such an issue of the plea. The defendant demanded judgment since the plaintiff had, in counting, tendered deraignment by his body, to which the defendant had rejoined, and that issue of the plea the plaintiff

Nos. 3, 4.

cherra sur luy; nous aviseroms.—Et puis il avoit A.D. 1346.
mes comune jour, &c.

(3.)¹ § Brief de Dowere. Leir² le baron fut vouche ^{Dowere.}
par une femme qe fut resceu par la defaute son ^{[Fitz.,}
^{Essone,} baroun, hors de garde. Le Vicounte retourna qe il ^{26;}
^{Voucher,} navoit rienz dont estre somons. Le vouche fut ^{126.]}
deinz age, et vient, et entra en garrantie, come
celuy qe avoit riens par descente, &c., et rendi
dowere, &c. La femme fut essone; et pur ceo qe
en lessone ne fut pas mencion fait qele fust resceu,
lessone fust quasse. Et lattourne la femme se profri,
et dit par *Birtone* qe puis le Vicounte ad retourne
nulle somons sur lenfaunt qe il ne serra pas resceu
de garrantir, ne de rendre.—Schs. Est il mesme la
personne qest vouche ou ne mye?—Et pur ceo qil³
ne dedit pas qil³ est mesme la personne qe fut vouche,
fut agarde qe la demandante recoverast soun dowere
vers le heir sil ust, et si nemye⁴ vers le tenant, et
il outre.

(4.)¹ § Un citizeyn de Loundres suyst un Appel de ^{Appel.}
Roberie, et dit qe si il put dedire prest est a deresner ^{[Fitz.,}
^{Corone et} par soun corps vers un homme qe gagea la bataille. ^{Plees de}
Le plaintif dit qe les citizeyns de Londres ount tiele ^{Corone,}
^{125.]} fraunchise qe nul bataille serra gage vers nul deux,⁵
en quelle partie qe soit suppose la felonie; et dit
qe il fut un de la cite, et demanda jugement si a
tiel issue de plee serra resceu. Le defendant
demanda jugement, puis qe il avoit tendu en
countaunt deresne par soun corps, a quel il avoit
rejoint, quel issue de plee il refuse; jugement.—

¹ From H., and I.

² I., le heir.

³ H., qele.

⁴ I., noun.

⁵ I., devers eux, instead of vers
nul deux.

Nos. 5, 6.

A.D. 1346. refused ; judgment.—*Skip with.* The tender of deraignement is only a formal expression, for in an Appeal, when the mainour is alleged to have been found on the defendant, the plaintiff will tender deraignment, and if the defendant wage battle the plaintiff will then have it in his power to say that the defendant cannot be admitted to do so because of the mainour ; so also in this case, although the plaintiff tendered the deraignment, he can now say that he will not accept the wager of battle, because he is a citizen, as above.—The plaintiff went out to imparl, and afterwards came back *gratis* and joined battle.—The citizens of London then made *profert* of a writ reciting that the King had granted to them that no battle should be waged against any citizen of the town, and they said that, although the plaintiff had put himself upon the battle, they did not understand, since he is one of the citizens, that the Court would admit him to do so to the prejudice of their franchise.—And thereupon the Court desired to consider.

Receipt. (5.) § By reason of the default of Maud late the wife of W. Casse, the issue of W. and Maud came and showed that the land was given to W. and this Maud his wife, to hold to them and to the heirs of their bodies begotten, and said that W. was dead, and that so the fee and the right had, in accordance with the limitation, descended to him as issue, and prayed to be admitted to defend his right. And, because Maud had a fee by virtue of the limitation, seisin of the land was awarded [to the defendant].

Debt. (6.) § A writ of Debt was brought against the heir of one who bound himself, and exception was taken to the writ on the ground the defendant was

Nos. 5, 6.

Skip. Le tendre de deresne nest qun parole de A.D. 1346. forme, qar en Appel, la ou meynoere¹ est allegge en le defendant, le pleintif tendra deresne, et si le defendant gage la bataille donques avera il a dire qil nest pas resceyvable pur le meynoere¹; auxi en ceo cas, coment² qil tendi, il dirra ore qil nel receyvra pas pur ceo qe il est citizein, *ut supra*.—Le pleintif issit denparler, et puis de gree revint, et rejoyn la bataille.—Ceux de Loundres mistrent avant un brief recitant coment le Roi les avoit graunte qe nul bataille serra gage vers nul citizein de la ville, et disoint qe coment qe le pleintif savoit mys en bataille, puis qil est un de la cite, qils nentendirent pas qe en prejudice de lour fraunchise la Court le voudra resceivre.—Et sur ceo la Court se voleit aviser, &c.

(5.)³ § Par la defaute Maude qe fust la femme Resceite. W. Casse, lissue entre W. et M. vient et moustre [Fitz., Resceit.] coment la terre fust done a W. et a ceste M. sa 17.⁴ femme, a eux et a les heirs de lour corps engendretz, et dit qe W. est mort, et issi est le fee et le dreit par la taille descendu a luy come issue, et pria destre receu. Et, pur ceo qe M. avoit fee par force de taille, seisine de terre fut agarde, &c.

(6.)⁴ § Brief de Dette porte vers le heir celuy qe Dette. se obligea, et le brief chalenge pur ceo qe il ne fut

¹ H., le meionoevre.

² coment is omitted from I.

³ From H., and I.

⁴ From H., and I. The record seems to be that found among the *Placita de Banco*, Easter, 20 Edw. III., R^o 112. It there appears that an action of Debt was brought by Agnes de Mertyton against Laurence

Ballard, of Coventry, and Agnes his wife, in respect of a sum of £120, in which Henry de la Mure, son of Richard de la Mure, of Coventry, uncle of the female defendant, whose heir she was, had bound "se et heredes suos" by obligation to the plaintiff.

No. 7.

A.D. 1346. not described as heir in the writ.—And the exception was not allowed.—Therefore the defendant said, by *Grene*, that he had nothing by descent from his ancestor whose deed, &c., and had nothing on the day on which the writ was purchased, or at any time afterwards; ready, &c.

Annuity. (7.) § A writ of Annuity was brought by Nigel son of Richard de Hakeneye,¹ and he counted that the annuity was granted to him in the thirteenth year of the King the father of the present King, and made *pro ferte* of a deed of which the date was reckoned from the Incarnation.—*Skipwith* demanded

¹ For the name see p. 139, note 2.

No. 7.

heir en le brief.—Et nient allowe.—Par A.D. 1346.
il dit, par *Grene*, qil navoit rienz par descent
ar soun auncestre qi fait, &c., ne navoit jour
rief purchace, ne unques puis; prest, &c.¹

)² § Annuyte porte par³ Richard le fitz Neel de *Annuite*.
neye, et counta qe lannuyte luy fut graunte
iiij. le Roi pere le Roi, &c., et mist avant fait
orta date del Incarnacion.⁴—*Skip.* demanda

e defendants pleaded, accord-
the record, "quod ipsa
es, ut consanguinea et heres
licti Henrici, de praedicto
to onerari non debet, quia
nt quod ipsa Agnes nihil
t per descensum hereditarium
praedicto Henrico ut de feodo
lici, et hoc parati sunt verifi-
unde petunt judicium."

plaintiff rejoined, "quod
a et tenementa descenderunt
at Agneti uxori praedicti
rentii, post mortem praedicti
rici, apud Coventre, in feodo
lici, de quibus ipsa Agnes
seisita die quo ipsa breve
n versus eos impetravit." this issue was joined.

re was a verdict at *Nisi*
"quod triginta et octo soli-
redditus, cum pertinentiis,
Coventre descenderunt pra-

Agneti, uxori praedicti
rentii infra nominati, de pra-
eo Henrico de la Myre, ut
anguineas et heredi praedicti
rici, in feodo simplici, de quo
lem redditu praedicti Lauren-
et Agnes uxor ejus seisiti
unt in dominico suo ut de
o et jure ipsius Agnetis die
etractionis brevis . . . Qæsiti
jus damna, &c., dicunt quod
lamna xx solidorum." gment was then given for the

plaintiff to recover the £120, and
the damages as assessed. Execution
by *Elegit* was awarded.

² From H., and I., but corrected
by the record, *Placita de Banco*,
Easter, 20 Edw. III., R° 60. It
there appears that the action was
brought by Nigel son of Richard de
Hakeneye against the Abbot of
Bardney, in respect of arrears of
an annual rent of 100 shillings.

³ I., vers.

⁴ The count or declaration was,
according to the record, "quod cum
"quidam Ricardus quondam Abbas
"Monasterii de Bardenay, pra-
"decessor praedicti nunc Abbatis,
"et ejusdem loci Conventus quarto
"Kalñ Maii anno domini millesimo
"tricentesimo vicesimo, et vice-
"simo octavo die Aprilis anno
"regni domini Edwardi nuper
"Regis patris domini Regis nunc
"tertiodecimo, apud Bardenay, per
"scriptum suum concesserunt ipsi
"Nigello quandam annuam
"pensionem centum solidorum de
"Monasterio suo de Bardenay ad
"duos anni terminos pro æquali
"portione percipiendam, videlicet,
"ad Festum Sancti Martini in
"hyeme quinquaginta solidos, et
"ad Festum Sancti Botulphi quin-
"quaginta solidos, quo usque ipsi
"Nigello per ipsos Abbatem et
"Conventum provisum fuisse de

No. 7.

A.D. 1346. judgment of the count, because the date in the deed was a later date than that which was in the count.— And at last the Court recorded that he had counted as to both dates, and adjudged the count to be good.—*Skipwith*. In the specialty his name is given as Nigel son of Richard de Hakeneye¹ *Civis Londoniarum*, and the word *Ciris* is omitted from the writ; judgment.—*Sadelynystanes*. That word *Ciris* in the specialty relates to the father, and the father is dead, and therefore we cannot so name him now.—*WILLOUGHBY*. Even though you were to name him in accordance with the specialty, it would not be a plea to say that he was not a citizen or that he was dead; therefore, since your writ is not in accordance with the specialty, take nothing by the writ, &c.

¹ For the name see p. 141, note 2.

No. 7.

ugement de counte, qar la date en le fait est puisne A.D. 1346.
late qe nest en le counte.—Et al drein la Court
recorda qil avoit counte del un et del autre date,
it agarda le counte bone.—*Skip.* En lespecialte il
ist nome Richard]¹ le fitz Neel de H. *Civis*
Londoniarum, et le *Civis* est entrelesse en le brief;
agement.²—*Sad.* Ceo³ parole *Civis* en lespecialte
efiert al pere, [et il est mort, par quei nous nel
oms nomer issi a ore.—WILBY. Mesqe vous luy
omassez acordaunt al especialte]¹ il ne serra pas
lee a dire qil ne fut pas citezein, ou qil fut
ort; [par quei, puisqe vostre brief nest pas acordaunt
especialte, ne preignez rienz pas le brief],¹
c.⁴

ecclesiastico beneficio competenti,
ita tamen quod idem Nigellus
tempore congruo se redderet
habilem ad beneficium ecclesiasticum obtainendum, de quo quidem
annuo redditu idem Nigellus fuit
seisisitus usque jam decem annis
elapsis ante diem impetrationis
brevis, &c., scilicet, decimum
nonum diem Junii anno regni
domini Regis nunc Angliae decimo
nono quod praedictus nunc Abbas
praedictum annum redditum
eidem Nigello subtraxit, et eum
ei reddere contradixit, et adhuc
contradicit, unde dicit quod
deterioratus est et damnum habet
ad valentiam centum librarium.
Et inde producit sectam, &c. Et
profert hic praedictum scriptum
sub nomine ipsorum Ricardi
nuper Abbatis predecessoris,
&c., et Conventus quod hoc
testatur." The deed is set
out at length. The grant is
in it described as being to
Nigello filio Ricardi de Hakeney
"Civis Londoniarum." The date

is only "quarto Kalū Maii anno
" domini millesimo trigesimo
" vicesimo."

¹ The words between brackets are omitted from I.

² The plea was, according to the record, "Abbas, . . . petit auditum
" tam brevis quam scripti praedicti,
" quibus auditis, petit judicium de
" brevi, eo quod in praedicto scripto
" praedictus Nigellus nominatur
" Nigellus filius Ricardi de Hakeney
" Civis Londoniarum et in brevi,
" &c., nominatur Nigellus filius
" Ricardi de Hakeney, et sic dicit
" quod breve, &c., non concordat
" scripto, &c., unde petit judicium
" de brevi, &c."

³ I., ceste.

⁴ The entry on the roll ends as follows:—"Et Nigellus non potest
" hoc dedicere. Ideo consideratum
" est quod praedictus Abbas eat inde
" sine die, et praedictus Nigellus
" nisi capiat per breve suum, sed
" sit in misericordia pro falso
" clameo, &c."

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A.D. 1346. (8.) § A writ of Account was brought. And the Account. plaintiff made *profert* of a deed which proved that the defendant was bound to account.—*Huse*. We tell you that the plaintiff granted by this deed that if we should execute in his favour a recognisance on statute merchant, on such a day, at Canterbury, the letter of account should be held as null, and, if not, that it should stand in force. And *Huse* said that the defendant had performed the covenants, and demanded judgment.—*Skipwith*. As to that we tell you that, by covin between you and the Clerk of the Statute, you executed a statute before the appointed day, which statute the Clerk delivered afterwards, and on the appointed day we came to Canterbury expecting the covenant to be carried out, and you did not come thither; and we do not understand that by any statute executed by covin, and not delivered to us, you can escape from the account.—*Thorpe*. We tell you that on the day mentioned in the indenture we came to Canterbury, and levied the statute, and you were not there on that day, and so we performed the condition mentioned in the indenture; ready, &c.—*Grene*. The condition is:—"If you shall be bound to us by a statute, &c.," by which it is to be understood that we are to be assured in accordance with law as to having the recognisance, and that we cannot be without having delivery of the statute, as to which matter we will aver that you never delivered it, but carried it away with you, and so, according to law, the condition is broken on your part; judgment.—*Thorpe*. We have said that we executed the statute, and that you were not there to receive it, and that was your fault; judgment.—*Grene*. If I have a lease of land from anyone on condition of payment of money on a certain day, and on that day I tender the money to him, and he refuses it, nevertheless, in a subsequent plea, it is necessary to tender the money to

No. 8.

(8.)¹ § Acompte fut porte. Et mist avant fait qe A.D. 1346.
 le prova.—*Huse*. Nous dioms qe le pleintif par ceo Acompte.
 fait graunta qe si nous luy feissons² une reconis- [Fitz.,
 sance sur un estatut marchaunt, tiel jour, a Caunterbirs *Accompt,*
 79.]
 qe la lettre dacompte serreit tenu pur nulle, et si
 noun qe ele³ estoit en sa force. Et dit qil avoit
 parfourni les covenantz; jugement.—*Skip*. A ceo
 vous dioms qe par covyne entre vous et le Clerk
 del estatut avant le jour limite vous feites⁴ un
 estatut, quel estatut le Clerk livera apres, et al jour
 limite nous venymes a C. entendaunt le covenant
 estre pursuy, et vous ne y venistes pas; et nenten-
 doms pas qe par nul estatut fait par covyne et
 nient livre a nous⁵ qe vous puissetz del acompte
 estourtre.—*Thorpe*. Nous dioms qe al jour compris
 deinz⁶ lendenture nous venimes a C., et levames
 lestatut, a quel jour vous ne estoiez pas, et issi
 parfourmames la condicion compris deinz⁶ lendenture;
 prest, &c.—*Grene*. La condicion est qe si vous soietz
 oblige a nous par lestatut, &c., quel est a entendre
 qe nous soioms seure par la leye de la reconissaunce,
 et ceo ne poms estre saunz livre aver del estatut,
 quel chose nous voloms averer qe unques ne livrastes,
 mes emportastes ove luy, et issi par leye la condicion
 de vostre part enfreint; jugement.—*Thorpe*. Nous
 avoms dit qe nous feimes⁷ lestatut, et qe vous
 nestoiez pas illoeques del receivre, quel fut vostre
 defaute; jugement.—*Grene*. Si jeo lesse a vous terre
 sur paiement de deners a certeyn jour, et al jour
 jeo luy⁸ tend⁹ les deners, et il refuse, et unqore
 en plee apres il li¹⁰ covient a tendre de novel;

¹ From H., and I., until otherwise stated.

² H., fesoms.

³ H., qil, instead of qe ele.

⁴ I., feistes.

⁵ The words a nous are omitted from I.

⁶ H., en.

⁷ I., feismes.

⁸ The words jeo luy are omitted from I.

⁹ H., tendi.

¹⁰ li is omitted from H.

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A.D. 1346. him anew ; so also in this case, although you levied the statute, yet, since you did not deliver it, you must be ready to deliver it now.—*SHARSHULLE*. The indenture purports that if you bind yourself to the plaintiff by a statute as above, the letter of account loses its force; now you are not bound until he is assured of that binding, and that he is not until he has delivery of the statute, and he has tendered an averment of the reverse; therefore, &c.—*Thorpe*. We have said and we still say that, on the day mentioned in the indenture, we came and executed the statute, and that he was not there, and that we performed the conditions mentioned in the indenture; ready, &c. And as to his statement that we levied a statute on that day, and carried it off without delivering it to him, issue cannot be taken on that point, because in the indenture everything depends on the statute being executed on the day mentioned therein, without having regard to the levying of the statute before that day; therefore, if he will say that we did not levy the statute on the day mentioned in the indenture, well and good; and, if he will not, let him confess that we did levy it, and we will abide judgment.—*Grene*. And confess on your part that you carried off the statute without delivering it to us, and we will do the like willingly.—*SHARSHULLE*. That which you have said as to the levying of a statute executed before the appointed day is nothing to the purpose, because it is not warranted by the indenture; therefore, if you will confess that he levied the statute on that day, but say that, because he did not deliver it to you, he has incurred the penalty, you can well do so, and otherwise you do not plead.—*Grene*. It is not so: for if I execute a statute in his favour before the day, and deliver it to him, so that he has security for the sum in

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auxi issi, coment qe vous le levastes, puis qe vous A.D. 1346.
 ne le¹ baillastes, vous covient estre prest a ore del
 delivrer.—Schs. Lendenture voet qe si vous vous
 obligez al pleintif par estatut *ut supra* qe la lettre
 dacompt perde sa force; ore vous nestes pas oblige
 tanqe il soit seure de icelle lien, et ceo nest il pas
 tanqe il eit la livere del estatut, et le revers de celle
 ad il tendu daverer; par quei, &c.—Thorpe. Nous
 avoms dit, et unqore dioms qe, al jour compris deinz²
 lendenture, nous venismes et feismes lestatut, et il
 ne y estoit pas, et parfournimes les condicions com-
 pris en lendenture; prest, &c. Et a ceo qil dit qe
 nous levames un estatut cel jour, et lemportames
 saunz le livrer a luy, sur cel issue ne poet estre
 pris, qar tut depend³ en lendenture sur lestatut fait
 le jour compris en icele, saunz aver regarde al lever
 del estatut avant cel jour; par quei sil voet dire qe
 nous ne levames pas lestatut al jour compris en
 lendenture, bien soit; et si noun, conisse⁴ qe nous
 le levames, et demuroms en jugement.—Grene. Et
 conissez vous qe vous lenportastes saunz nous livrer,
 et nous ferroms volunters.—Schs. Ceo qe vous avetz
 dit del lever dun estatut fait avant le jour, ceo nest
 rienz a purpos, qar ceo nest pas garranti del
 endenture; par quei si vous voilletz⁵ conustre qe a
 cel jour il leva lestatut, mes par taunt qil nel vous
 livera qil est encoru la peine, vous poiez bien, et
 autrement vous ne pledez pas.—Grene. Il nest pas
 issi: qar si jeo luy face un estatut avant le jour,
 et luy baille cele, issi qe il est sure de la somme

¹ le is omitted from I.² H., en.³ H., depent.⁴ I., conissetz.⁵ H., volez.

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A.D. 1346. respect of which I was to have executed a recognisance in his favour afterwards, I act to his advantage, and do not do anything contrary to the condition.—*Skipwith, ad idem.* We have assigned a default in him in that he carried off the statute without delivering it to us either then or at any time since, and we understand that non-delivery to have the effect of breaking the condition on his part; and, because we have surmised that, and he does not deny it, we demand judgment.—*Thorpe.* We tell you that we levied the statute on the day, &c., as above, and delivered it to the Clerk of the Recognisance to deliver to you; ready, &c.—*Skipwith.* That is not a plea, without saying that you did not carry it off: for if you took it away from the Clerk before we had it in hand, still the condition is broken on your part; therefore, &c. And since we have tendered the averment that the statute was never delivered to us, before which delivery you were not bound, and you do not now offer to deliver it to us, we therefore demand judgment.—*STONORE* therefore gave judgment against the defendant, to the effect that he must account.

Account. § A writ of Account was brought against A., on the ground of an obligation, and he made use of a collateral indenture, which purported that if the defendant should come, on a certain day, in a certain year, and at a certain place, and should acknowledge and execute an obligation by statute merchant to the plaintiff in respect of a certain sum, the obligation to account should then lose its force. And the defendant said that he came on the day, and executed the statute, and that the plaintiff did not come on that day, and the defendant demanded judgment inasmuch as he had performed the condition.—*Greene.* We tell you that by covin between him and the Clerk of the Statute he came before the day, and executed such

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qe jeo luy duisse luy aver reconu¹ apres, jeo luy A.D. 1346.
 face avantage, et ne face pas en offens de la condicion.
 —*Skip.*, ad *idem*. Nous avoms assigne defaute en luy
 par tant qil emporta lestatut saunz le liverer a nous
 adonques ou unques puis, quel noun livrer nous
 entendoms qe soit cause denfreindre la condicion de
 sa part; et de ceo qe nous lavoms surmlys, et il nel
 dedit pas, nous demandoms jugement.—*Thorpe*. Nous
 vous dioms qe nous levames lestatut al jour, &c.,
ut supra, et le livrAMES al Clerk de la reconissaunce
 a vous livrer; prest, &c.—*Skip*. Ceo nest pas plee
 saunz dire qe vous nel emportastes pas: qar si
 vous² tollistes del Clerk devant qe lussoms en mayn,
 unqore est la condicion enfreint de vostre part; par
 quei, &c. Et depuis qe nous avoms tendu daverer
 qe unques lestatut ne nous fut livre, avant quel vous
 nestes pas oblige, ne vous nel tendez pas a ore de
 nous livrer, par quei nous demandoms jugement,
 &c.—Par quei STON. luy ajuggea dacompter, &c.

§ Acompte³ vers A. par obligacioun, qe usa Acompte.
 endenture de cost, qe voleit qe si le defendant
 venist, certain jour, an, et lieu, et se conissast et
 feist une obligacioun par statut marchaunt al pleintif
 de certain summe qe lobligacioun dacompter⁴ perdrent
 sa force. Et dit qil vint al jour et feist lestatut, a
 quel temps le pleintif ne vint pas, et demanda
 jugement, desicomme il ad parfourny la condicion.—
Grene. Nous vous dioms qe par covyn entre luy et
 le clerke del estatut il vint devant le jour, et fist un

¹ I., conu.² vous is omitted from I.³ This report of the case is from

L., and C.

⁴ C., del accompte.

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A.D. 1346. a statute, and delivered it to the Clerk to keep, *absque hoc* that he delivered any statute to us; ready, &c.—*Thorpe*. We came on the appointed day, and executed the statute, and that which the indenture purported, that is to say, that we should come; ready, &c.—*Grene*. Even though you did come and did execute a statute, you did not deliver any to us, and still do not do so, and so you are still not charged, because without the obligation by statute we shall never have an action.—*Thorpe*. Since you did not come, and we did come and did execute the statute, there is nothing else that we could have done.—*Grene*. Yes, there is something that you ought to have done; you ought to have taken the statute and tendered it to us.—*Thorpe*. When we have executed the statute, and you possibly leave it in the Clerk's possession because you are unwilling to pay his fee, whose fault is that?—*Grene*. You, who have to execute the statute in my favour, will pay his fee if you please, and will deliver the statute to me, and otherwise you have not, according to law, performed the condition.—*Thorpe*. You surmise against me that I executed a statute by covin on another day, and even though I had executed ten statutes on another day, and had delivered them to you, I should never have been any the more discharged, because the covenant cannot be performed by the execution of any statute except on the same day; therefore you must either admit, as I say, that I executed the statute on the appointed day, or you must abide judgment on the ground that it was not delivered to you, or else you must take a traverse on the execution of the statute on the same day.—*WILLOUGHBY* said that, even though he executed the statute before the day, the condition would thereby be fulfilled, and *SHARSHULLE* said the contrary.—*Grene*. I am not concerned to deny that you executed the statute;

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tel estatut, et le bailla al clerke a garder, sanz ceo A.D. 1346.
qil nous livera nulle estatut; prest, &c.—*Thorpe*.
Nous venimes al jour assis, et feimes lestatut, et ceo
qe lendenture voleit, qe nous ne venimes; prest, &c.
—*Grene*. Tut venistes vous et feistes lestatut, vous
nous liverastes¹ nulle, ne unqore ne fetes, vous estes
unqore descharge, qar sanz lobligacioun par² lestatut
nous averoms jammes accion.—*Thorpe*. Quant vous
ne venistes pas, et nous venimes et feimes lestatut,
nous ne poames³ autre chose aver fait.—*Grene*. Si
duissetz; vous le duissetz aver pris et nous aver
tendu lestatut.—*Thorpe*. Quant nous lavoms fait, et
vous par cas le lessetz vers le clerke pur ceo qe
ne volletz⁴ paier soun fee, qe defaut est celle?—
Grene. Vous qe moy ferretz lestatut vous⁵ paieretz
si vous voilletz, et le moi liveretz, et autrement par
lei navetz pas parfourny la condicion.—*Thorpe*. Vous
moi surmettetz qe par covyn jeo fesoi un lestatut a
autre jour, et mesqe jeo usse fait x. lestatuts a autre
jour, et⁶ vous le usse⁷ livere, jammes ne serroy⁸ jeo
le plus par taunt descharge, qar par fesaunce de
nulle lestatut purra le covenant estre fourny forqe a
mesme le jour; par qai ou covient il qe vous
grauntetz ovesqe moi qe jeo fesoi lestatut al jour
assis, ou⁹ demuretz en jugement pur ceo qil ne fuit
pas livere a vous, ou autrement qe vous pernetz
travers sur la fesaunce del lestatut a mesme le jour.—
WILBY. dit, mesqil feist lestatut avant le jour, qe la
condicion serreit fourny, et SCHAR. *contrarium*.—*Grene*.
Jeo ne su pas a dedire qe vous feistes lestatut;

¹ L., baillastes.⁶ et is omitted from C.² par is omitted from C.⁷ MSS., assetz.³ C., poms⁸ L., serra.⁴ C., voilletz.⁹ C., et.⁵ vous is omitted from C.

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A.D. 1346. but because you did not deliver any statute to me, nor did any other person on your behalf, and you still do not tender any statute, I demand judgment, and pray the account.—*Thorpe*. And, inasmuch as you do not deny that I came on the appointed day and executed the statute, and so did all that in me lay, and you did not come on the day, and we tell you that we delivered the statute to the Clerk to deliver to the plaintiff when he should come, therefore I demand judgment.—*SHARSHULLE*. Even though you did entrust it to another to deliver to him, and that other did nothing of the kind, it does not follow that you are discharged from the first penalty. —*STONORE*. Because the condition is that you are to execute a statute in his favour, upon which, by intendment of law, he would have an action, and that action he could not have if the statute were not delivered to him by you, or else on your behalf, the COURT giveth judgment that you do proceed to account.

Franchise
(Cognis-
ance of
pleas).

(9.) § The Mayor and Bailiffs of the town of Coventry demanded cognisance of a plea, to wit, of a writ of Entry *sur disseisin*. And they showed how the King had granted to the Queen, his mother, cognisance of all manner of pleas within the Hundred of L.,¹ within which Hundred the town of Coventry is, and showed also another charter to the effect that the Queen's tenants could elect a Mayor and Bailiffs, from year to year, from among themselves, and stated that, by license from the King, the Queen granted

¹ The manor of Cheylesmore, according to the record of Trinity Term.

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mes de ceo qe vous moi liverastes nulle estatut, ne A.D. 1346.
 nulle autre de par vous, ne unqore nulle ne tendetz,
 jeo demande jugement et prie lacompte.—*Thorpe*. Et
 desicome vous ne deditetz pas qe jeo¹ ne vink al
 jour assis et fesoi lestatut, et issint fesoi ceo qen
 moi fuit, et vous ne venistes pas al jour, et nous
 vous dioms qe nous liverames² lestatut al clerke pur
 liverer a luy quant il vendreit, par qai jugement.—
SCHAB. Mesqe vous baillastes a autre a liverer a
 luy qe rien fist de ceo, nensuyt il pas qe vous
 soietz descharge de la primere peyne.—*STON*. Pur
 ceo qe la condicion est qe vous luy ferretz un
 estatut, par quel par entent de lei il avereit accion,
 et ceo ne purreit il aver sil ne fuit livere a luy par
 vous, ou autrement de par vous, et la livere fait a
 luy ne meintenetz pas, si agarde la COURT qe vous
 ailletz³ dacompter.⁴

(9.)⁵ § Le Meire et les baillis de la ville⁶ de *Fraun-*
Coventre demanderent conissance dun plee, saver,⁷
 dun brief Dentre sur disseisine. Et moustrerent
 coment le Roi avoit graunte a la Roigne, sa meere,
 conissaunce de touz maneres des plees deinz⁷
*Lundrede*⁸ de L., deinz quel hundred la ville de
 Coventre est, et auxi une autre chartre qe les tenantz
 la Roigne puissent eslire⁹ Meire et baillis, dan en
 an. de .eux¹⁰ mesmes, et disoint coment, par conge

¹ jeo is omitted from C.

² C., baillames.

³ L., ailletz.

⁴ C., de accompter.

⁵ From H., and I., until otherwise stated. There is among the *Placita de Banco* of Trinity Term, 20 Edw. III., a record (R^o 325) of a case in which cognisance was prayed by the Mayor and Bailiffs of Coventry. A writ of *Entry dum fuit infra etatem* was brought by Henry son of Reginald Ballard of Coventry

against John Box of Coventry, in respect of a messuage in Coventry. Upon John's appearance in the Common Bench, the Mayor and Bailiffs of Coventry intervened and made their prayer.

⁶ The words de la ville are omitted from H.

⁷ I., dedeinz.

⁸ I., le hundred.

⁹ I., elire.

¹⁰ H., eaux.

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A.D. 1346. the same franchises to them, and that the King himself granted and confirmed them, and they made *profert* of all the charters.—*Gaynesford* said that the Prior of Coventry was lord of a moiety of the town by gift from Saint Edward, and that gift had been confirmed by the present King. And he made *profert* of a deed, and also made *profert* of a transcript of a fine by which his predecessor purchased the other moiety. And he said that the Prior had view of frank pledge throughout the whole town from time whereof there is no memory, and had alleged it in proceedings on *Quo waranto* in an Eyre, and that therefore the grant which the King had made to those who were his (the Prior's) tenants could not enure to the loss of his franchise, so that he should not have the cognisance which belonged to him.—*Skipwith*. You shall not be heard to speak for the Prior now, since there is no one who can be a party to stop this except the King, and with regard to him we show sufficient cause why he has no ground to refuse it.—*HILLARY*. It would be hard law, if I have a Hundred to which all my tenants owe suit, and ought to have cognisance of all manner of contracts made within the precinct of the Hundred, that I should lose it by reason of the King's grant.—*Derworthy*. The King can grant to another whatsoever cognisance he ought himself to have in his own court; now this action could not be pleaded anywhere else but in this Court before the King's grant; therefore he can grant the cognisance of it to me since it will not belong to any other person; but if it were a writ of Right, in which case the person of whom the land is holden would have his court, it would be right that we should not have the franchise since the King himself would not have it; and moreover those who are parties to the original cannot counter-plead it, nor can the King counterplead it because

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le Roi, la Roigne graunta mesmes les fraunchises a A.D. 1346. eux,¹ et le Roi mesme le graunta et conferma, et moustrerent avant touz les chartres.—*Gayn.* dit qe le Priour de Coventre est seignur de la moyte de la ville de doun Seynt Edward, quel doun est conferme par le Roi qore est. Et le mist avant fait, et auxi mist avant transescript dune fyn par quel soun predecessour purchacea lautre moyte. Et dit qil avoit vewe de frauncplegge par tut la ville de temps douut memore, &c., et par *Quo waranto* allegge en Eyere, et issi le graunt qe le Roi ad fait a ceux qe sount ces tenantz ne poet oepre en perde de sa fraunchise par quei il ne dust sa conissaunce avoir.—*Skip.* Vous ne serrez pas oy a parler pur le Priour a ore, puis qil ny ad nulle qe poet estre partie del arester forqe le Roi, et a luy moustroms assetz pur quei il nad pas cause del countredire.—*HILL.* Il serreit fort ley si jeo eye un hundrede a quel toux mes tenantz deivent suite, et deye aver conissaunce de touz maneres de contractes faites deinz la pursente, qe par graunt le Roi jeo perdray.—*Der.* Quantqe le Roi dust aver conissaunce mesme en sa Court poet il graunter [a autre; ore cest accion ne puist estre plede aillours qe cyeinz avant graunt le Roi; *ergo* de cele il moy purra graunter]² la conissaunce puis qe ceo nattendra a nulle autre personne; mes si ceo fut un brief de Dreit, en quel cas luy de qi la terre est tenu averoit sa Court, il serra resoun qe nous nussoms pas la fraunchise, puis qe le Roi mesme nel³ averoit pas; et auxi ceux qe sount parties al original nel countreplederont pas, ne le Roi nel poet countrepleder puis qil nous ad

¹ H., eaux.² The words between brackets are omitted from I.
omitted from H.³ The words mesme nel are

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A.D. 1346. he has himself granted it to us; and if we commit any tort against the Prior by the user of the franchise, he will be able to make plaint, and put the matter to trial as between party and party; therefore he cannot now be listened to when he intervenes in this manner.—*Mutlow* said that in the time of the present King, in the eighteenth year of his reign, a garnishment was sued against the men of Coventry by the commonalty of the county of Warwick, because they claimed to have cognisance of pleas of another person's tenants, and that by grant from the King, as well as of the King's tenants, which grant was made to the damage of the whole of the commonalty, and also to the damage of the King, because the King was not apprised of the damage to him inasmuch as no writ of *Ad quod damnum* was sued, and for that reason the charter was revoked so far as that point was concerned. And *Mutlow* made *profert* of the record. And he demanded judgment, for that reason, whether they ought to have the cognisance.—*Blaykeston*. As to that we tell you that the person against whom the writ is brought is the Queen's tenant within the Hundred, and, even though the charter be revoked in one point, it remains in force in the other point, that is to say, to have cognisance with regard to the Queen's tenants; therefore, &c.—*Pole*. Still you must show that the Mayor and the Bailiffs who claim the cognisance are the Queen's tenants also, because no others can be Mayor or Bailiffs, and we say that they are our tenants, and not the Queen's tenants; ready, &c.—*Moubray*. If the Court can allow the issue, we will aver that the tenant, and the Mayor, and the Bailiffs are the Queen's tenants within the Hundred.—And afterwards the demandant in the original writ was nonsuited.—*Moubray*. And so the whole is quashed.

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graunte mesme; et si nous fesoms tort al Priour A.D. 1346.
 par le user de la fraanchise, il se purra pleindre, et
 mettre la chose en triement come partie a partie¹;
 par quei a ore en la manere qil vient il ne poet
 estre² escote.—*Mutl.* dit qen temps³ le Roi qore est
 lan xviii. un garnissement fut suy vers ceux de
 Coventre par le comune del countee de Warrewyke,
 de ceo qils clamerount daver conissaunce de plee
 d'autri tenantz, et ceo par graunt le Roi, auxi bien
 come de⁴ tenantz de Roi, quel grant fut fait en
 damage de tut⁵ la cominalte⁶ et auxi del Roi, puis
 qe le Roi ne fut⁷ pas apris de soun damage par
 taunt qe le *Ad quod damnum* nestoit pas suy, par
 cele cause la chartre en cele point fut repelle. Et
 mist avant le recorde. Et demanda jugement si par
 cele cause duist il la conissaunce aver.—*Blaik.* A ceo
 vous dioms qe celuy vers qi le brief est porte est
 tenant la Roigne deinz Lundrede,⁸ et mesqe la
 chartre soit repelle en lun point il demoert en sa
 force en lautre point, saver, daver conissaunce de les
 tenantz la Roigne; par quei, &c.—*Pole.* Unqore il
 vous covient moustrer qe le Maire et les baillifs qe
 chalangent la conissaunce soient tenantz la Roigne
 auxi, qar autres ne pount estre Maire ne baillifs, et
 nous dioms qils sount noz tenantz, et ne mye les
 tenantz la Roigne; prest, &c.—*Moubray.* Si Court
 poet suffrir lissue, nous voloms averer qe le tenant
 et le Maire et les baillifs sount tenantz la Roigne
 deinz le Hundred.—Et puis le demandant en
 loriginal fuit nounsuy.—*Moubray.* Et issi tut
 quasse.

¹ The words a partie are omitted from I.

⁵ I., tote.

² estre is omitted from I.

⁶ H., counte.

³ I., tens.

⁷ I., nest, instead of ne fut.

⁴ de is omitted from I.

⁸ I., le hundred.

No. 9.

A.D. 1346. § A writ of Entry was brought in respect of Entry. tenements in Coventry. The Mayor and Bailiffs of the town prayed cognisance, and alleged that the King had granted to Isabella, Queen of England, cognisance of all pleas of all her tenants within the view within her manor of Cheylesmore, in which manor Coventry is, and that afterwards the King gave license to the same Queen that she might grant cognisance of pleas, &c., to her tenants within the same view in the manor of Cheylesmore in the town of Coventry. They showed also that there was to be a commonalty in that town—Mayor and Bailiffs from among the Queen's tenants. And they showed also how the Queen had granted to them cognisance of pleas. And thereupon they had a writ. The Prior of Coventry intervened, by attorney admitted in Chancery by writ, to take exception, and he opposed the allowance of the franchise, and said by parol that this franchise was not allowable, because the King cannot, by common right, grant a franchise, except to his own tenants, and so there are no Mayor and Bailiffs, and that consequently no one can claim this franchise for Mayor and Bailiffs, since they make themselves out to be tenants of Queen Isabella, in whom such a franchise of having Mayor and Bailiffs ought not to vest.—*Skipwith.* The Prior is not a party and cannot be a party to the plea or to question the franchise; and, even though he could be, still it is not law, as he says, that the King cannot grant a franchise to the tenants of other persons, that is to say, the franchise of having a Mayor and Bailiffs, and cognisance of pleas, for he can grant to another cognisance of that of which he ought himself to have cognisance in his own Court, and if the grant were to the damage of another person, so that it were revocable, the proper course would be to have the King's charter revoked on suit made for that purpose,

No. 9.

§ Entre¹ porte des tenementz en Coventre. Le A.D. 1346.
Meire et baillifs de la ville prierunt la conissaunce,
et alleggerunt qe le Roi avoit grante a Isabelle
Reigne Dengleterre conissaunce des toux plees de
toux ses tenantz deinz la vewe deinz son maner de
C.² deinz quel maner Coventre est, et puis le Roi
dona conge a mesme la Reigne qele purreit graunter
conissaunce des plees, &c., a ses tenantz deinz mesme
Ia vewe el maner de C. en la ville de Coventre.
Et moustrerent auxint qil y avereit Comune en cele
ville, Meire et baillifs des tenantz la Reigne. Et
auxint moustrerent coment la Reigne ad grante a
eux conissaunce, &c. Et sur ceo avoient ils brief.
Le Prior de Coventre³ vint par attourne resceu⁴ en
la Chauncellerie par brief, pur challenge, et destourba
lalowaunce de la fraunchise, et dit par parole qe
cele fraunchise nest pas allowable, qar le Roi de
comune dreit ne poet graunter fraunchise forqe a
ses tenantz demene, et issint ny ad il pas Meire et
baillifs, *nec per consequens* nulle homme poet cele
fraunchise clamer pur Meire et baillifs, qar ils se
fount tenantz la Reigne Isabelle, en queux tiel
fraunchise daver Meire et baillifs ne duist vestire.—
Skip. Le Prior nest partie, ne ne⁵ poet estre, al
plee ne a la fraunchise; et, tut poait il, unqore ceo
nest pas ley qil parle qe le Roi ne poet pas graunter
fraunchise a autres tenantz, saver, daver Meire et
baillifs, et conisaunce des plees, qar ceo dout il
mesme duist aver conissaunce en sa Court il le poet
graunter a autre, et sil fuit en damage d'autre, issint
qe la chose fuit repellable, il coviendrait par suite
repeller la chartre le Roi, mes, esteaunt le grant

¹ This report of the case is from L., and C.

² C., G.

³ The words de Coventre are omitted from L,

⁴ resceu is omitted from L.

⁵ The second ne is omitted from L.

No. 9.

A.D. 1346. but while the King's grant is in force, it must be admitted that the franchise is to be allowed.—*Pole* made *proof* of a record *sub pede sigilla*, which proved that heretofore the King's charter by which divers franchises were granted to the people of Coventry (to wit, that they should decide their causes not by means of persons foreign to the town, but entirely by themselves, and another franchise also) was revoked by the King's Council, because the King cannot grant a franchise to the tenants of another person. And *Pole* said further that the Prior of Coventry is Queen Isabella's tenant of the whole of the town of Coventry, one moiety in demesne, and the other moiety in service, and he showed in what manner, by fines and by prescription. And he said that those who make themselves out to be Mayors and Bailiffs, and who are parties to this plea, are all the Prior's tenants and not the Queen's tenants. And since they did not show that they ought to have such a franchise except on the ground that they were supposed to be the Queen's tenants, and they were not the Queen's tenants, he demanded judgment whether they ought to have the franchise.—*WILLOUGHBY*. As to the record of the revocation of the King's charter, we have nothing to do with it, because it relates to a different franchise, but it is one proof that the King ought not to grant a franchise to any but his own tenants.—But *SHARSHULLE* said :—You claim this franchise as tenants of our Lady, the Queen, and he surmises against you that you are the Prior's tenants, and not the Queen's tenants. What do you answer to that? Will you accept the averment or not?—And *Skipwith* did not dare to do so, but caused the demandant to be non-suited.

No. 9.

le Roi en sa force, il covient qil conust qe ceo A.D. 1346.
 soit allowe.—*Pole* mist avant recorde *sub pede sigilli*,
 qe prova qautrefoith par le Counseille le Roi la
 chartre le Roi par quele fuit grante as gentz de
 Coventre divers fraunchises, saver, qils passerent¹
 pas par foreins mes tut par eux mesmes, et autre
 fraunchise auxint fuit repelle, pur ceo qe le Roi ne
 poait graunter fraunchise a autri tenantz. Et dit
 outre qe le Prior de Coventre est tenant de tote la
 ville de Coventre, la moite en demene, la moite en
 service, de la Reigne Isabelle, et moustra coment
 par fines et par prescripcions. Et dit qe ces qe se
 fount Meire et baillifs, et qe sount parties a ceo ple
 trestouz sount ses tenantz et noun par les tenauntz
 la Reigne, et del houre qils ne moustreut pas qils
 duissent aver tiel fraunchise forqe par cause qils
 duissent estre les tenauntz la Reigne, et ceo ne
 sount ils pas, jugement si la fraunchise deivent
 aver.—*WILBY*. Quant al recorde de repeller la chartre
 le Roi nous navoms qe faire, qar ceo fut d'autre
 fraunchise, mes un prove est ceo qe le Roi ne
 devereit pas graunter fraunchise forqe a ses tenantz
 demene.—*Mes SCHAR*.² Vous clametz ceste fraunchise
 com tenantz ma dame, &c., et il vous surmette qe
 vous estes ses tenantz et noun pas tenantz la Reigne.
 Qai³ responez a ceo ? Voilletz laverement ou noun ?
 —Et *Skip.* nosa, mes fist le demandant estre
 nounsuy.⁴

¹ C., passerunt.³ C., par quei.² L., and C., *Skyp*. But the following words are those of a judge and not of counsel.⁴ See Y.B., Trin., 20 Edw. III. No. 59.

Nos. 10, 11.

A.D. 1346. (10.) § A writ of Escheat was brought. The words in the writ were "*feloniam fecit pro qua abjuravit regnum.*"—Exception was taken to the writ by the tenant by his warranty on the ground that it did not determine what realm the felon abjured—whether France or England.—*Grene.* Although the King's style is changed in the writ, the old form of the writ will not be changed.—*Thorpe.* Yes, it will be, because in a writ of Waste the words will be "*Cum de communi concilio regni nostri Angliae, &c.*" For the same reason this writ ought to change the old course, like the other.—And in the end the writ was adjudged to be good.—*Thorpe* prayed that his exception might be entered.—And so it was.—*Thorpe.* Again judgment of the writ, for the demand in the writ is "*triginta et unam acram,*" whereas it ought to be *acras*, and also the words are "*feloniam commisit pro qua abjuravit, &c.,*" whereas they ought to be "*feloniam fecit.*"—And, notwithstanding this, the writ was adjudged to be good.

Fine.

(11.) § Two men granted two parts of the tenements comprised, &c., which one A. held for a term of ten years (whereas there was only one year of the term yet to come), to another in fee tail, and granted the reversion of the third part, which A. held in dower to the same person, and the fine was admitted.

Fine.

§ Fine *sur grant* of a reversion after the expiration of a term of nine years. And on the day of the note of the fine eight years had passed, so that there was only one year of the term to come. And there was touched by some one the point that according to the conusance now made the term will extend nine years from the present time. And it was said that in such a case the words of the fine ought to be "which one A. holds for a term of nine years, whereof eight years are passed, and which after the expiration of the term are to revert." And the fine was admitted in that form.

Nos. 10, 11.

(10.)¹ § Brief Deschet porte. Le brief voleit A.D. 1346.
feloniam fecit pro qua abjuravit regnum.—Le brief Eschete.
 chalange par le tenant par sa garrantie pur ceo qe ^{[Fitz.,} *Brieſe,*
 il ne determina pas quel realme il abjura, ou ^{251.]}
 Fraunce ou Engletere.—*Grene.* Coment qe lestile²
 de brief soit chaunge, launciene forme de brief ne
 serra mye chaunge.—*Thorpe.* Il serra, qar en brief
 de Wast le brief dirra *Cum de communi concilio*
regni nostri Angliae, &c. Par mesme la resoun deit
 cel brief chaunger launciene cours come lautre.—
 Et a drein le brief fut agarde bon.—*Thorpe* pria qe
 soun chalange fut entre.—*Et ita fuit.*—*Thorpe.*
 Unqore jugement de brief, qar la demande en le
 brief est *triginta et unam acram,* la ou il serreit
acras, et auxi *feloniam commisit pro qua abjuravit,*
&c., la ou il serreit *feloniam fecit.*—Et, *non obstante*
 ceo cy, le brief fut agarde bon.

(11.)¹ § Deux hommes graunterent les ij parties *Finis.*
 de tenementz contenuz, &c., queux un A. tient a
 terme de dicz aunz, la ou il navoit a venir mes un
 an, a un autre en fee taille, et graunterent la
 reversion de la terce partie qe A. tient en dowere
 a mesme la persone, et resceu.

§ *Finis*³ sur grant de reversion apres le terme de *Finis.*
 ix aunz. Et jour de la note viij aunz sount passetz,
 issint qil ny ad forqun⁴ an del terme a venir. Et
 par asqun fuit touche qe par la conisaunce a ore
 qe le terme tendra de ey ix aunz. Et fuit parle qe
 la fine serreit en tiel cas queux un A. tient a terme
 de ix aunz, dount les viij aunz sount passetz, et
 quel apres le terme, &c. Et par cel manere fuit
 resceu.

¹ From H., and I., until other-
wise stated.

² I., lestile.

³ This report of the case is from
L., and C.

⁴ C., qun.

No. 12.

A.D. 1346. (12.) § The King brought a *Quare non admisit* against the Archbishop of York, and counted that he had recovered the presentation against one A.,¹ and commanded the defendant to admit one J.,² his clerk; the defendant tortiously refused to admit him, &c.—*Pole*. Judgment of the count: for they have not specified on what kind of original writ he recovered, nor upon what title, so that we could have any definite answer to it.—And this exception was not allowed.—*Pole*. Again, judgment of the writ: for we say that the King has a *Quare impedit* in respect of the same church pending against us, by which suit the right to the patronage will be decided: and we do not understand that, before that suit is determined, you will put us to answer.—*WILLOUGHBY*. To the *Quare impedit* which the King brings against you it will peradventure be a plea to say that he has a *Quare non admisit* pending against you, but not *e converso*: for you will not, by reason of his suing a *Quare impedit*, be excused for not having admitted the presentee after the matter had been adjudged in his favour.—*Pole*. It is a good answer in a *Quare non admisit* to say that there is a dispute set on foot by a *Quare impedit* between the parties, and that so the church is litigious, and that therefore the defendant is not compelled to admit the presentee of any one until that dispute is ended; and since the King has a *Quare impedit* pending against the Archbishop, and on that account the church is litigious, therefore the King ought not to be answered until that plea is determined.—And, notwithstanding this, *HILLARY* and *WILLOUGHBY* put him to

¹ For the full name, see p. 163,
note 1.

² For the full name, see p. 163,
note 2.

No. 12.

(12)¹ § Le Roi porta *Quare non admisit* vers A.D. 1346. Lercevesqe de E., et counta qil avoit recoveri le *Quare non admisit.* presentement vers un A., et maunda al defendant [Fitz., de resceivre un J., soun clerk; il receivre ne voleit, *Quare non admisit.* al tort, &c.² — *Pole.* Jugement de counte: qar ils 10.] nount pas determine sur quel original il recoveri, ne sur quel title, a quei nous purroms aver certain respons.—*Et non allocatur.* — *Pole.* Unqore, jugement de brief: qar nous dioms qe le Roi ad un *Quare impedit* de mesme leglise pendant vers nous, par quel sute le dreit de patronage serra discus; et nentendoms pas qe, avant cele sute termine, vous nous voilletz mettre a respondre.—*WILBY.* Al *Quare impedit* qe le Roi porte vers vous par aventure il serra plee a dire qil ad un *Quare non admisit* pendaunt vers vous, mes ne mye e *converso:* qar de ceo qe vous navetz pas rescieu le presente apres qe la chose luy fut ajuge vous ne serrez escuse par sa sute dun *Quare impedit.* — *Pole.* Il est bon respons en *Quare non admisit* a dire qil y ad debat mys par *Quare impedit* entre parties, et issint leglise litigiouse, par quei avant qe cel debat fut termine il nest pas arce de resceivre ascuny presente; et puis qe le Roi ad un *Quare impedit* devers luy pendant, et par taunt litigiouse, par quei tanqe cel plee soit termine il ne deit estre respondu.—*Et, non obstante ceo, HILLARY et WILBY lui mistrent*

¹ From H., and I., until other wise stated, but corrected by the record, *Placita de Banco, Easter, 20 Edw. III., R^o 141.* It there appears that the action was brought by the King against William, Archbishop of York, after he had recovered "präsentationem suam ad .. Archidiaconatum de Estrithinge .. in ecclesia beati Petri Eboraci .. versus Adomarum Roberti per .. defaltam ipsius Adomari."

² The declaration was, according to the record, that the King had recovered, as above, and that the Archbishop "Johannem le Cestre, " clericum Regis. ad Archidiaconatum prædictum per Regem "præsentatum admittere, &c., " recusavit, in Regis contemptum "ac grave damnum, et præjudicium, &c., manifestum."

No. 12.

A.D. 1346. answer.—Therefore he said, by *Richemunde*, that A.,¹ against whom the King alleged the recovery by *Quare impedit*, never had anything in the patronage, but was Archdeacon of the same Archdeaconry at that same time by collation of the Archbishop's predecessor, and is so this day. And we tell you, said *Richemunde*, that we and our predecessors have been seised of the patronage from all time, *absque hoc* that the King or any of his progenitors ever had anything in the patronage as of their own right ; and we do not understand that, without alleging that the title in his *Quare impedit* was other than in his own right, the King will, in this case, charge us with contempt.—*Thorpe*. You see plainly that in his answer there are divers peremptory pleas, that is to say, one inasmuch as he has said that neither the King nor any of the King's progenitors ever had anything in the patronage, another inasmuch as he has affirmed the patronage to have been and to be in himself and his predecessors from all

¹ For the full name, *see* p. 163, note 1, and p. 165, note 1.

No. 12.

a respondre.—Par quei il dit, par *Rich.*, qe A., vers A.D. 1346.
 qi le Roi alleggea le recoverir par le *Quare impedit*,
 navoit unques rienz en lavowere, mes fut Ercedekne
 de mesme lercedekenerie a mesme le temps de la
 collacion son predecessor, et huy ceo jour est. Et
 vous dioms qe nous et noz predecessours avoms
 este seisi del avowere de tut temps, saunz ceo qe
 le Roi ou asqun de ses progenitours unques avoient
 rienz en lavowere come de lour propre dreit; et
 nentendoms pas qe saunz allegger qe le title en
 son *Quare impedit* fut autre qe en son dreit propre
 qen cel cas il nous voille de contempte charger.¹—
Thorpe. Vous veiez bien coment en soun respons
 sount divers peremptores, saver, de ceo qe il ad dit
 qe le Roy ne nul de ses progenitours unques avoient
 rienz en lavowere, un autre de ceo qil ad affirme
 en li et en ses predecessours lavowere de tot temps,

¹ The plea was, according to the record, " Dicit quod dominus Rex tuli breve suum de *Quare impedit* versus ipsum Archiepiscopum de eodem Archidiaconatu, in quo brevi nullus titulus inseritur, nec in brevi super quo idem dominus Rex recuperavit presentationem suam versus predictum Adomarum de Archidiaconatu illo aliquis titulus inserebatur per quod de communi intellectu debet intelligi ut de jure suo proprio. Et dicit quod ipse Archiepiscopus et omnes predecessores sui Archiepiscopi seisis fuerunt de advocatione ejusdem Archidiaconatus, de tempore quo non extat memoria, ut de jure ecclesie sume beati Petri Eboraci, absque hoc quod dominus Rex seu aliquis progenitorum suorum aliquid habuerunt in eadem advocatione ut de jure suo proprio nisi fuerit tempore vacationis ejusdem Archiepiscopatus quod temporalia ejusdem Archiepiscopatus in manum domini Regis extiterunt ut de jure Archiepiscopatus predicti, et dicit quod nec predictus Adomarus nec aliquis predecessorum suorum seu antecessorum suorum unquam aliquid habuerunt in advocatione predicta nisi tantum quod predictus Adomarus fuit Archidiaconus Archidiaconatus predicti tempore suo de patronatu ejusdem Archiepiscopi, et diu ante impetrationem brevium praedictorum, et adhuc est, versus quem nullum breve de *Quare impedit*, ut intelligit, de jure jacet, unde petit judicium si dominus Rex per aliquod recuperare super tali breve versus predictum Adomarum, qui nihil habet in advocatione predicta, injuriam seu contemptum in persona sua assignare velit, &c."

No. 12.

A.D. 1846. time, and that consequently no contempt can be affirmed in him and in his predecessors; and we demand judgment for the King whether we have any need to reply to this answer which is thus double; and we pray that you be held guilty of contempt.—
Pole. One plea is consequent upon the other: for, if we and our predecessors have held the advowson from all time, therefore neither the King nor any of his progenitors ever had it, and so our issue is all one, and we demand judgment whether, &c.—And upon that they were adjourned, &c.

No. 12.

et, per consequens, nulle contempte poet estre afferme A.D. 1346.
en lui et en ses predecessours ; et demandoms
jugement pur le Roi si a cest respons qest si
double eyoms mester a respondre ; et prioms qe
vous soietz atteint de contempte.¹ — Pole. Lun
ensuyst del autre : qar si nous et noz predecessours
avoms tenuz lavoweson de tut temps, ergo le Roi
ne nul de ses progenitours unques nel avoient, et
issi nostre issu un, et demandoms jugement si, &c. —
Et sur ceo sount ajournez, &c.²

¹ The replication on behalf of the King was, according to the record,
 " quod, cum idem Archiepiscopus
 " respondendo superius allegaverit
 " quod in brevi domini Regis de
 " Quare impedit de eodem Archi-
 " diaconatu nullus titulus inseritur,
 " nec in brevi illo super quo idem
 " dominus Rex præsentationem
 " suam recuperavit ad Archidiacon-
 " atum prædictum versus prædictum
 " Adomarum aliquis titulus in
 " serebatur, et sic de communi
 " intellectu intelligi deberet ipsum
 " dominum Regem recuperasse
 " præsentationem suam ad Archi-
 " diaconatum prædictum in jure
 " suo proprio. Et etiam cum ipse
 " Archiepiscopus allegaverit ipsum
 " et omnes predecessores suos
 " Archiepiscopos, &c., fuisse seisis
 " de advocatione ejusdem Archi-
 " diaconatus, a tempore quo non
 " extat memoria, ut de jure ecclesie
 " sue beati Petri Eboraci, absque
 " hoc quod idem dominus Rex aut
 " aliquis progenitorum suorum
 " unquam aliquid habuerunt in
 " advocatione illa ut in jure suo
 " proprio nisi tempore vacationis
 " Archiepiscopatus prædicti. Et
 " exquo idem Archiepiscopus alle-
 " gaverit prædictum Adomarum
 " nec aliquem predecessorum seu

" antecessorum suorum unquam
 " aliquid habuisse in advocatione
 " prædicta nisi solomodo quod ipse
 " fuit Archidiaconus, &c., unde
 " prædictum breve de Quare
 " impedit versus eum non jaceret de
 " jure, et petierit judicium, &c.,
 " quarum quidem responsionum
 " quælibet per se est peremptoria,
 " et in se contraria, non intendit
 " quod idem Archiepiscopus ad
 " tantas responsiones peremptorias
 " et contrarias in se admittas, debeat,
 " et petit judicium pro ipso domino
 " Rege, &c."

² According to the roll there were several adjournments after the replication, and in Hilary Term in the following year there was a pleading on behalf of the King,
 " quod dominus Rex recuperavit
 " præsentationem suam ad Archi-
 " diaconatum prædictum versus
 " præfatum Adomarum perjudicium
 " Curiæ sue prædictæ, ad execu-
 " tionem cuius judicii faciendam
 " præfatus Archiepiscopus est
 " Minister domini Regis, per quod
 " ad ipsum Archiepiscopum non
 " pertinet titulum domini Regis nec
 " judicium Curiæ sue prædictæ
 " controplicare, nec recusare
 " facere executionem ejusdem
 " judicii. Et ex quo idem Archie-

No. 12.

A.D. 1346. § The King brought a *Quare non admisit* against *Quare non* the Archbishop of York in respect of the Arch-deaconry of the East Riding in the church of St. Peter of York, supposing that he had recovered by default his presentation against Aymer Roberti.—*Richemunde*. The King has not shown upon what title he recovered; judgment of the declaration.—This exception was not allowed.—*Richemunde*. Our Lord the King has a writ of *Quare impedit* pending against us in this Court in respect of the same benefice, and we do not understand that, while that writ is pending, upon which a decision with respect to the patronage may be made between us, he will be answered as to this writ.—*Thorpe*. That plea is to the action.—*Moubray*. It is not so, but on this writ we cannot plead our right of patronage, but

No. 12.

§ Le¹ Roi porta *Quare non admisit* vers Lercevesqe A.D. 1346.
Deoverwyc² del Ercedekene³ de E. en leglise de Seint *Quare non admisit.*
Piere Deverwyc,² supposant qil avoit recoveri par
defaulte soun presentement⁴ vers Eymer⁵ Robert.—
Rich. Le Roi nad pas moustre sur quel title il
recoveri; jugement de la moustraunce.⁶—*Non allocatur.*
—Rich. Nostre seignur⁷ le Roi ad brief de *Quare*
empedit pendant devers nous ceinz de mesme la
benefice, et nentendoms pas qe pendant cel brief a
quel la discussion de patronage se purra faire
entre⁸ nous qe a ceo brief voille estre respondu.—
Thorpe. Ceo est⁹ al accion.—*Moubray.* Noun est,
mes en ceo brief nous ne poms pleder nostre dreit

“ *piscopus, qui est Minister domini Regis in hoc casu, clericum domini Regis admittere omnino recusavit, petit judicium pro domino Rege, et quod prædictus Archiepiscopus convincatur de contemptu, &c.*”
After further adjournments there was again a pleading on the King's behalf in Michaelmas Term (21 Edward III.), “ *quod prædictus Archiepiscopus est Minister domini Regis in casu prædicto, ad quem non pertinet, nec de jure pertinere potest, titulum domini Regis nec judicium Curiæ suæ prædicto contraplaticare, nec executionem judicii pro Rege reddit facere recusare, maxime cum idem Archiepiscopus aliquod jus in Archidiaconatu prædicto per collationem per se vel aliquem prædecessorum suorum alicui de Archiepiscopatu illo factam in personam suam specialiter non affirmat, nec in ista vacatione aliquid clamat, nec allegat prædictum Adomarum versus quem, &c., tenuisse prædictum Archieaconatum per collationem*

“ *ipsius Archiepiscopi seu prædecessorum suorum, seu per prævisionem Curie romanæ, seu alio quovismodo in jure ipsius Archiepiscopi. Et præmissa per prædictum Archiepiscopum allegata non sunt tanti vigoris nec effectus quin cum eisdem allegatis stare possit quod dominus Rex habuit jus præsentandi, &c. Et ex quo idem Archiepiscopus, qui est Minister domini Regis in hoc casu, clericum domini Regis admittere recusavit, petit judicium, ut prius, pro domino Rege, et quod idem Archiepiscopus de prædicto contemptu convincatur, &c.*”

After this follow several more adjournments, but nothing further.

¹ This report of the case is from L., and C.

² C., Deverwyke.

³ L., Ercedekne.

⁴ L., predecessor.

⁵ L., Eynter.

⁶ L., noun moustraunce.

⁷ L., seignour.

⁸ C., dentre.

⁹ C., cest, instead of ceo est.

No. 13.

A.D. 1346. only disability in the person of the presentee; and, if we plead in that manner, we shall be debarred from our answer to the *Quare impedit*, which would be too great a mischief.—WILLOUGHBY. It will be the reverse; and, if you can oust the King from this suit, you will bar him on the *Quare impedit*.—STONORE. Do you imagine that you can oust the King from his power to sue what writ he pleases? Answer.—*Richmunde* demanded oyer of the record.—And he did not have it.—*Richemunde*. We tell you that the King has a *Quare impedit* pending against us in respect of the same Archdeaconry, on which writ no declaration has been made; and we tell you that Aymer Roberti, against whom our Lord the King recovered, never had anything in the advowson, nor did his predecessors or ancestors, but he is a clerk and was Archdeacon; and we tell you that neither our Lord the King nor any of his progenitors ever had anything, as of their own right, in the advowson; and we do not understand that by virtue of such a recovery limited against one who had nothing, &c., the King will be answered; and, if our Lord the King will make another declaration as to his title, we shall be ready to answer.

Avowry. (18.) § Avowry. Peter de Mauley and Margaret his wife avowed on the Prior of Watton on the ground that the Prior held of them by homage, fealty, and scutage, that is to say, when the scutage runs at forty shillings [for one knight's fee, nine pounds], and when more more, and when less less, of which services one J.¹ was seised by the hand of the Prior's predecessor as regardant to the manor of R.¹

¹ For the real names see p. 173, note 1.

No. 18.

de patronage, mes¹ noun ablete de la personne A.D. 1346.
 presente ; et, si nous pledoms par cel manere,
 nous serroms forclos de nostre² respouns al Quare
impedit, qe serreit trop grant meschief.—WILBY. Il
serra e contra; et, si vous poietz ouster le Roi de
 ceste suite, vous luy barretz al Quare *impedit*.—
 STON. Quidetz vous de ouster le Roi qil ne purra
 suire quel brief qe luy plerra ? Responez.—Rich.
 demanda oy del recorde.—*Et non habuit*.—Rich.
 Nous vous dioms qe le Roi ad un Quare *impedit*
 pendant vers nous de mesme lercedekene, a quel
 brief nulle moustraunce nest fait; et vous dioms
 qe Eymer Robert, vers qi nostre seignour le Roi
 recoveri, navoit unques rienz en lavowesoun, ne ses
 predecessours ne auncestres, einz il est clerke, et
 fuit Ercedekene; et vous dioms qe nostre seignur³
 le Roi ne nulle de ses progenitours rienz ny avoint
 com lour dreit propre en lavowesoun; et nentendoms
 pas qe par force dun⁴ tiel recoverir taille vers celuy
 qe rienz navoit, &c., le Roi voille estre respondu;
 et, si nostre seignour le Roi voille faire autre
 moustraunce de soun title, prest serroms a
 respoudre.

(18.)⁵ § Avowere. Piers⁶ de Mauley et M.⁷ sa Avowere.
 femme avowerent sur le Priour de Wattone pur [Fitz.,
 ceo qil tient de eux par homage, foialte,⁸ et escuage,
 saver, quant lescu court a xl s., et a pluis pluis, &c.,
 de queux services un J. fut seisi par my la mayn
 soun predecessor come regardants al maner de R.,

¹ mes is omitted from C.

was brought by the Prior of
 Watton against Peter "de Malo

² nostre is omitted from C.

"lacu le quinte," and Margaret
 his wife, and Robert Mitayn, in
 respect of a taking of 8 horses.

³ L., seignour.

⁶ MSS. of Y.B., Thomas.

⁴ L., de.

⁷ MSS. of Y.B., J.

⁵ From H., and I., but corrected
 by the record, *Placita de Banco*,
 Easter, 20 Edw. III., R^o 49, d.
 It there appears that the action

⁸ I., fealte.

No. 13.

A.D. 1346. which J.¹ granted the manor, together with the Prior's services, to Peter and to Margaret, in virtue of which grant the predecessor attorned, and so they avowed for rent in arrear.—*Haveryngton*. We say that J.¹ never had anything in the seignory; ready, &c.—*Moubray*. You shall not be admitted to that, because you

¹ For the real name, see p. 173, notes 1 and 2.

No. 18.

le quel J. le maner, ensemblement ove les services A.D. 1346.
le Priour, graunta a P. et a M., par quel graunt le
predecessour attourna, et pur rente arrere avowerent.¹
—*Har.* Nous dioms qe J. navoit unques riens en la
seignurie, prest, &c.²—*Moubray.* A ceo navendrez

¹ The avowry by Peter and Margaret, on behalf of themselves and Robert, was "quod quidam Ricardus nuper Prior loci predicti, predecessor predicti Prioris nunc, tenuit de quodam Johanne de Mauley nuper persona ecclesie de Bayntone, ut de manerio suo de Bayntone, maneria de Wattone et Honwald, cum pertinentiis, sex mesuagia, centum tofta, tria molendina, viginti carucatas terræ, centum acras prati, ducentas acras moræ et pasture, cum pertinentiis, in villis de Killyngwyke juxta Wattone [and other vills named], et advocationes ecclesiarum de Killyngwyke juxta Wattone et Bridsale . . . per servitia quatuor feodorum militum et dimidii, videlicet per homagium, fidelitatem, et ad scutagium domini Regis quadragesima solidorum, cum acciderit, novem librarum, et ad plus plus et ad minus minus, et faciendo sectam ad curiam ipsius Johannis de Bayntone de tribus septimanis in tres septimanas, de quibus servitiis idem Johannes de Mauley fuit seisis per manus predicti Ricardi Prioris ut per manus veri tenentis sui, qui quidem Johannes de Mauley manerium de Bayntone predictum ad quod, &c., dedit et concessit ipsis Petro et Margareta et heredibus de corporibus suis ex euntibus, virtute cuius donationis et concessionis predictus Ricardus Prior se attornavit, &c., eisdem

" Petro et Margareta, Et, quia homagium fidelitas et secta predicti Prioris nunc per decem et septem annos ante diem captionis predictæ eisdem Petro et Margareta a retro fuerunt, pro homagio et fidelitate ejusdem Prioris advocant ipsi captionem sex equorum de predictis equis, et pro secta, &c., advocant captionem duorum equorum de predictis equis, in predicto loco, ut infra feodium suum." ³ According to the record, the Prior's plea was "non cognoscendo aliquas servitia esse spectantia ad predictum manerium de Bayntone, nec quod predictus Ricardus Prior se unquam attornavit predictis Petro et Margareta, dicit quod predicti Petrus et Margareta captionem predictam ratione predicta super ipsum justam advocare non possunt, dicit enim quod ubi predicti Petrus et Margareta in advocate suo predicto supponunt prestatum Johannem de Mauley fuisse seistum de predicto manerio de Bayntone, unde supponunt servitia predicta esse parcella, &c., idem Johannes de Mauley nunquam aliquid habuit in dominio nec in servitio predicti Ricardi Prioris predecessoris, &c., sicut predicti Petrus et Margareta superius asserunt. Et hoc paratus est verificare, unde petit judicium, &c."

No. 14.

A.D. 1346. have not denied that your services were parcel of the manor, nor have you denied the grant or the attornment; therefore you shall not be admitted to take issue on the estate of the grantor any more than it is taken in a Formedon; and, moreover, if J. had nothing in the seignory, you might on that ground safely disclaim, or plead "out of your fee"; wherefore, &c.—*Haveryngton*. Then you refuse the averment.—And *Moubray* did not dare to abide judgment.—Therefore the averment was admitted.

Avowry (14.) § William son of Roger Smyth, of Wycombe, avowed the taking on the plaintiff, and said that Roger his father was seised of services by the hand of one Margaret.—*Grene*. We tell you that one J. granted the same services by fine to Roger and to this same Margaret his wife, to hold to them and to their heirs. And *Grene* made *profert* of a part of the fine. And *Grene* demanded judgment since the avowant had laid the seisin by the hand of Margaret, who had a joint estate with Roger in the seignory, and also was his wife, by whose hand no seisin could be laid as being had by Roger, and for that reason he demanded judgment of the avowry.—*Huse*. We say that Roger, our father, was seised by the hand of Margaret before the marriage; ready, &c.—And the plaintiff's attorney offered to aver the contrary.—Afterwards *Grene* came on behalf of the plaintiff, and said that, since the avowant had not denied the purchase of the services by the fine, which is a proof that it was after the marriage (for if it were not a proof he would have the averment) the

No. 14.

Maye, qar vous navetz pas dedit qe vos services ne A.D. 1346.
Furent parcele del manere, ne le graunt et lattourne-
nent; par quei a prendre issue sur lestat le
Grantour ne serrez resceu, nent plus qen fourme de
Cloun pris; et auxi si J. avoit riens en la seignurie,
Ergo vous poietz salvement desclamer, ou pleder hors
Ce vostre fee; par quei, &c.—*Har.* Donqes refusetz
Laverement.—Et *Moubray* nosa pas demurer.—Par
quei laverement fut resceu.¹

(14.)² § William le fitz Roger Smyth, de Wycombe, *Avowere*.
avowa la prise sur le plaintif, et dit qe Roger son
pere fut seisi des services par³ la mayn une
Margarete.—*Grene*. Nous vous dioms qun J. graunta
mesmes les services par fine a Roger et a mesme
ceste Margarete sa femme, a eux⁴ et a lour heirs.
Et mist avant partie de la fine. Et demanda juge-
ment del houre qe il ad lie la seisine par⁵ la meyne
M., qavoit joint estat en la seignurie ov luy, et
auxi fut sa femme, par qi mayn nulle seisine par
R. put estre lie, par quei il demanda jugement del
avowere.—*Husec*. Nous dioms qe R. nostre pere fut
seisi par la mayn M. avant les esposailles; prest,
&c.—Et lattourne lautre tendi daverer le contrare.⁶—
Apres *Grene* vint pur le plaintif, et dit qe de puis
qil nad pas dedit le purchas des services par la fine,
quest prove puis les esposailles, qar autrement il

¹ According to the record there was a replication, upon which issue was joined, "quod praedictus Johannes de Mauley fuit seisisitus de dominio et servitiis praedicti Ricardi Prioris, prout ipse superius in advocare suo supponit." There was afterwards a verdict at *Nisi prius*, "quod praedictus Johannes de Maulay nunquam aliquid habuit in dominio nec in servitiis ipsius Ricardi Prioris de Watone sicut iidem Petrus et

"Margareta per advocare suum supponunt. Juratores quæsiti ad quædam, &c., dicunt quod ad damnum ipsius Prioris decem librarum." Judgment was accordingly given for the Prior to recover his damages.
² From H., and I.
³ I., par my.
⁴ H., eaux.
⁵ I., revers.

No. 15.

A.D. 1346. avowant should not be admitted to aver the seisin of the services before the marriage, without adding that he purchased the services before the marriage, for otherwise he would have the averment that he was seised of the services before the purchase of the services, which is contrary to law. And though the party has replied, and a day is given, it is for the Court to see whether the averment is admissible.— And in the end the issue was accepted as above.

Escheat. (15.)¹ § One John² brought a writ of Escheat against Thomas Ughtred, and supposed that one J.³ held of him, and committed felony, for which he was outlawed. And the count was to the effect that the felony was committed in the time of the present King.—*Moubray*. We tell you that this same J., in the twelfth year of the father of the present King, adhered to the Scots, the King's enemies, in the county of York, who put the King's land to fire and flame, for which adherence the father of the present King seized this same land, and was seised in the Exchequer, during all his time, of the issues of the same land. And *Moubray* made *profert* of an exemplification of the issues as to which an account was

¹ This report is in continuation of Y.B., Mich., 19 Edw. III., No. 43, p. 392.

² For the full name, *see* p. 177, note 1.
³ For the real name, *see* p. 177, note 1.

No. 15.

avereit laverement, qil ne serra pas resceu daverer A.D. 1346.
la seisine des services avant les esposailles, saunz
doner qil purchacea les services avant les esposailles,
qar autrement il avereit laverement qil fut seisi des
services avant le purchas des services, qest encountre
ley. Et mesqe partie eit replie, et jour soit done, a
la Court est a veer si laverement soit acceptable.—
Et a drein lissue fut resceu *ut supra*.

(15.)¹ § Un Johan porta brief Deschet vers Eschet.
Thomas Ughtred,² et supposa qun J. tient de luy, et
fist felonie, par quel il fut utlage. Et counta qe la
felonie se fit en temps le Roi qore est.³—*Moubray*.
Nous vous dioms qe mesme celuy J., lan xij⁴ pere
le Roi qore est saerda a les Escoz, enemys le Roy,
en le counte Deverwyke, et mistrent la terre le Roi
en feu et flamme, par quele aesioun le pere le Roi
qore est seisist mesme cele terre, et tut son temps
en Lescheker seisisti de les issues de mesme la terre.
Et mist avant exemplificacion de les issues qe le

¹ From H., and I., but corrected by the record. *Placita de Banco*, Easter, 20 Edw. III., R^o 296. It there appears that the action was brought by John Minyot, knight, against Thomas Ughtred, knight, in respect of the manor of Islebeke (Islebeck, Yorks.), with certain exceptions, "quod Willelmus de Islebeke de eo tenuit per certa servitia, et quod ad ipsum reverti debet tanquam escaeta sua, eo quod praedictus Willelmus feloniam fecit pro qua utlagatus fuit."

² MSS. of Y.B., Sustred.

³ In the count, as it appears in the record, the services by which the manor was held are stated in detail. As to the felony, "idem Willelmus indictatus fuit coram domino Rege apud Eboracum, termino Sancti Michaelis anno

" regni domini Regis nunc decimo,
" de eo quod idem Willelmus furtive
" cepit viginti solidos de quodam
" Alano de Kirkeby, apud Kirkeby
" Wyske, die Martis proxima post
" festum Sancti Michaelis anno
" regni Regis Edwardi patris
" domini Regis nunc decimo octavo,
" praetextu cuius indictamenti pre-
" dictus Willelmus postea, pro eo
" quod non comparuit, positus fuit
" in exigendo ad utlagandum,
" &c., et ea occasione fuit
" utlagatus per breve domini Regis,
" quod quidem breve retornatum
" fuit coram domino Rege apud
" Eboracum in Octabis Sancti
" Michaelis anno regnidomini Regis
" nunc undecimo. Et petit quod
" praedictus Thomas respondeat,
" &c.'

⁴ H., viij.; I., xiij.

No. 15.

A.D. 1346. rendered to the King in the Exchequer by reason of J.'s forfeiture. And *Moubray* said that the land descended to the present King, who gave it to one Simon Symeon in fee, which Simon gave it to the tenant in fee, and the King by his charter confirmed that gift. And (said *Moubray*) we demand judgment, since the King, the father of the present King, seized the land by reason of an adherence which occurred a long time before you suppose the felony to have been committed on which you take your action, whether you can have an action against us who have the King's estate.—

No. 15.

Roi fut servi en Lescheker par resoun de sa forfeiture. Et A.D. 1346.
 dit qe la terre descendi al Roi qore est, le quel la dona
 a un Simond Symeon en fee, le quel la dona a luy, et
 le Roi par sa chartre cel doun conferma. Et demandoms
 jugement, puis qe le Roi le pere le seisist par resoun
 dun aesioun fait longe temps avant qe vous supposez la
 felonie fait de quei vous pernetz vostre accion, si vous
 vers nous qe avoms lestat le Roi puissez accion aver.¹

¹ Thomas Ughtred's plea was,
 according to the record, "non
 cognoscendo quod prædictum
 manerium, exceptis, &c., tenetur
 de prædicto Johanne, dicit quod
 idem Johannes actionem inde
 versuseum habere non debet, quia
 dicit quod prædictus Willelmus,
 die Mercurii proxima post Festum
 Sancti Michaelis anno regni Regis
 Edwardi patris domini Regis nunc
 duodecimo, apud Threske, adhæsit
 Thomæ Randolphi, Comiti de Murref,
 et aliis Scotis inimicis et rebellibus
 ejusdem Regis, qui destruxerunt
 et combusserunt villam de Threske,
 et alias villas circumquaque in
 Anglia, ratione cujus adhesionis
 idem Rex pater, &c., seisivit in
 manum suam manerium prædic-
 tum, simul cum aliis tenementis
 quæ fuerunt prædicti Willelmi, per
 forisfacturam ejusdem Willelmi, et
 de exitibus eorundem Escaotor
 prædicti Regis patris, &c., anno
 regni sui tertiodecimo, quarto-
 decimo, quintodecimo, et sexto-
 decimo, ad Scaccarium suum re-
 spondit. Et de ipso Edwardo Rege
 patre, &c., descendit manerium
 prædictum, exceptis, &c., isti
 domino Regi nunc, ut filio et heredi,
 &c., qui quidem dominus Rex nunc
 per chartam suam manerium illud
 cum pertinentiis, exceptis, &c.,
 dedit et concessit cuidam Simoni
 Symeon tenendum sibi et heredi-

" bus suis in perpetuum. Et idem
 Simon postea per chartam suam
 idem manerium, cum pertinentiis,
 exceptis, &c., dedit et concessit
 ipsi Thomæ, tenendum sibi et
 heredibus suis in perpetuum, in
 cujus seisina manorio prædicto
 existente dominus Rex nunc con-
 cessionem et donationem præfati
 Simonis confirmavit et ratificavit.
 Et profert hic literas domini Regis
 nunc patentes, quæ testantur quod
 prædictus Escaotor prædicti Regis
 patris, &c., anno regni ejusdem
 Regis tertiodecimo, respondit ad
 Scaccarium ejusdem patris de exi-
 tibus manerii prædicti, exceptis,
 &c., ratione supradicta. Profert
 etiam hic literas patentesejusdem
 Regis nunc quæ donationem præ-
 fato Simoni de præfato manorio,
 exceptis, &c., et confirmationem
 inde eidem Thomæ in forma
 supradicta testantur, &c., et sic
 dicit quod prædictus dominus Rex
 pater, &c., fuit seisitus de præ-
 dicto manorio, cum pertinentiis,
 exceptis, &c., in dominico suo ut
 de feodo et jure, per forisfacturam
 prædicti Willelini ratione præ-
 dictæ felonie anno regni ejusdem
 Edwardi Regis patris domini Regis
 nunc duodecimo factæ, unde petit
 judicium si idem Johannes, ratione
 alicujus felonie post tempus præ-
 dictum commissæ, actionem inde
 versus eum habere debeat, &c."

No. 16.

1346. *Richemunde.* Sir, you see plainly how he alleges an adherence, which is a matter falling under the head of record; and of that nothing is shown by them; judgment.—And they were adjourned, *prece partium*, without giving any answer at the bar.

*are
redit.* (16.) § Richard, Earl of Arundel, brought a *Quare
impedit* against a Prior,¹ and counted that a dispute arose, upon a vacancy, between his grandfather² and the Prior's predecessor, and thereupon an agreement was made to the effect that the predecessor and his successors should present twice, and his ancestor and the ancestor's heirs on the third vacancy interchangeably for ever. Therefore the Prior's predecessor presented two parsons on two vacancies, and on the next vacancy afterwards his grandfather presented the third parson, and then the Prior's predecessor on two other vacancies, and at the time of the next vacancy afterwards Edmund his father³ was under age, and the Prior's predecessor usurped [one presentation], and afterwards presented twice, and this is the third vacancy afterwards, which belongs to him, and so it belongs to him to present.—*Derworthy.* You see

¹ Against the Abbess of Shaftesbury, according to the record. See p. 181, note 2.

² great-grandfather, according to the record. See p. 181, note 3.

³ Richard, Earl of Arundel, the plaintiff himself, according to the record. See p. 183, note 3.

No. 16.

—*Richem.* Sire, vous veiez bien comment il allegge A.D. 1346.
une aesioun, quele chose chiet en recorde, et de ceo
ne moustrezt rien ; jugement.—Et sount ajournez,
prece partium, saunz nul respons doner al barre.¹

(16.)² § Richard Counte Darundel porta *Quare impedit* vers un Priour, et counta qe debate sourdy [Fitz., sur une voidaunce, entre soun aiel et le predecessor *Quare impedit,* le Priour, par quei acord se prist qe le predecessor 62.] et ses successors presenteront deux foitz, et son auncestre et ses heirs al tierce voidaunce, entre-chaungeablement a touz jours. Par quei son predecessor presenta ij personnes a ij voydaunces, et a la procheyn voydaunce apres son aiel presenta la terce personne, et son predecessor presenta autres ij a autres ij voidaunces, et a la procheyn voydaunce apres, Esmond son pere fut deinz age, et son predecessor purrist, et puis presenta ij foitz, et cest le terce voidaunce apres, quel attient a luy, et issi attient a luy a presenter.³—*Der.* Vous veiez

¹ According to the roll there were several adjournments after the plea, and, at last, "venit praedictus Thomas per attornatum suum, et obtulit se quarto die versus praedictum Johannem de praedicto placito. Et ipse non venit et fuit petens. Ideo consideratum est quod praedictus Johannes et plegii sui de prosecundo in misericordia, et Thomas inde sine die, &c."

² From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 68, d. It there appears that the action was brought by Richard, Earl of Arundel, against the Abbess of Shaftesbury in respect of a presentation to the church of Kyvele (Keevil, Wilts).

³ The declaration was, according to the record, "quod cum quedam nuper Abbatissa Shastonie, predecessor praedictae nunc Abbatissae, et quidam Johannes fitz Aleyn, antecessor praefati Comitis, cuius heres ipse est, fuerunt seisisi de advocatione ecclesiae praedictae ut de feodo et jure ipsius Johannis et de jure Abbatissae ecclesiae suae Sancti Edwardi Shastonie, . . . tempore H. Regis proavi domini Regis nunc, inter quos inde postmodum contentio mota fuit super presentatione ecclesiae de Kyvele praedictae, et contentio illa tandem sedata et pacificata fuit in hunc modum, scilicet, quod praedicta Abbatissa quem tunc fuit et successores suos in duabus vaccinationibus ecclesiae praedictae extunc

No. 16.

A.D. 1346. plainly how he supposes a composition to have been made between his grandfather and our predecessor, and he does not, by his declaration, assign the patronage as having been in them previously, so that the composition between them could be operative; judgment.—And this exception was not allowed.—And afterwards exception was taken to the writ on the ground that the plaintiff did not allege between which predecessor and his grandfather the composition was made, by giving the predecessor a baptismal name ; judgment.—And this exception was not allowed.—*Derworthy*. They have counted as to a composition ; have they anything to prove that?—*Thorpe*. We have shown the composition to have been put in operation, and you do not answer any-

“ proxime accidentibus ad eandem	“ suum, qui ad præsentationem
“ ecclesiam præsentarent, &c., et	“ suam fuit admissus et institutus.
“ sic prædicta Abbatissa et successo-	“ Et de ipso Johanne fitz
“ sores suæ in duabus vacationibus	“ Aleyn descendit ad vocatio ecclesiam
“ ecclesiæ de Kyvele prædictæ, et	“ prædictæ præsentandi per turnum,
“ prædictus Johannes et heredes	“ &c., cuidam Ricardo nuper Comiti
“ sui in tertia vacatione, &c.,	“ Arundellis ut filio et heredi,
“ vicissim præsentarent in per-	“ &c. Et postmodum, vacante
“ petuum ad eandem. Et dicit quod	“ ecclesia prædicta per mortem
“ in eadem vacatione ecclesiæ præ-	“ prædicti Johannis de Kent, præ-
“ dictæ post compositionem præ-	“ dictus Ricardus fitz Aleyn Comes
“ dictani prædicta Abbatissa, præ-	“ Arundellis, filius et heres prædicti
“ decessor, &c., incipiendo turnum,	“ Johannis fitz Aleyn, ut in turno
“ &c., præsentavit ad eandem	“ suo, &c., secundum formam com-
“ quandam Johannem Barel, clericum	“ positionis prædictæ, presentavit
“ cum suum, qui ad præsentationem	“ ad eandem quandam Robertum
“ suam fuit admissus et institutus	“ de Leycestre, clericum, &c., qui
“ tempore prædicti H.	“ ad præsentationem suam fuit
“ Regis proavi domini Regis nunc	“ admissus et institutus
“ Et postea, vacante ecclesia præ-	“ tempore Edwardi Regis avi
“ dicta per mortem prædicti	“ domini Regis nunc. Et, vacante
“ Johannis Barel, Abbatissa Shaf-	“ ecclesia illa per resignationem
“ toniae quæ tunc fuit, prædecessor	“ ejusdem Roberti, Abbatissa Shaf-
“ prædictæ nunc Abbatissæ, con-	“ toniae quæ tunc fuit, prædecessor
“ tinuando turnum suum, &c.,	“ prædictæ nunc Abbatissæ, pre-
“ præsentavit ad eandem quandam	“ sentavit ad eandem quandam
“ Johannem de Kent, clericum	“ Rogerum Flemyngh, clericum

No. 16.

bien coment il suppose un composition estre fait entre A.D. 1346.
 son aiel et nostre predecessour, et par sa demoustrance
 il ne doun pas avowere en eux¹ avant, issint qe
 la composition put entre eux oeperer ; jugement.—
Et non allocatur.—Et puis le brief chalenge de ceo
 qil nallege pas entre quel predecessour et son aiel
 la composicioun se prist, come a doner a luy noun
 de Baptesme ; jugement.—*Et non allocatur.*—*Der.* [Fitz.,
 Ils ount conte dun composition ; ount ils riens de ^{Monstrans}
 cele ?—*Thorpe.* Nous avoms moustre la composition ^{de faits}
 estre mys en oepre, et a ceo vous ne responez ^{fins et}
^{records,} 70.]

“ suum, qui ad præsentationem	“ suum, qui ad præsentationem
“ suam fuit admissus et institutus.	“ suam fuit admissus et institutus
“ Et, vacante ecclesia illa	“ tempore domini Regis nunc.
“ per mortem prædicti Rogeri,	“ Et, vacante ecclesia illa per
“ Abbatissa Shaftoniæ quæ tunc	“ mortem prædicti Johannis Hervy,
“ fuit, predecessor prædictæ nunc	“ Abbatissa Shaftoniæ quæ tunc
“ Abbatissa, presentavit ad eandem	“ fuit, predecessor prædictæ nunc
“ quendam Walterum Hervy, cleri-	“ Abbatissæ presentavit ad eandem
“ cum suum, qui ad præsenta-	“ quendam Magistrum Johannem
“ tionem suam fuit admissus et	“ de Kyrkeby, clericum suum, qui
“ institutus . . . tempore Edwardi	“ ad præsentationem suam fuit
“ Regis patris domini Regis nunc.	“ admissus et institutus
“ Et de ipso Ricardo filio Johannis	“ tempore ejusdem domini Regis
“ descendit advocatio præsentandi	“ nunc. Et postea, vacante ecclesia
“ per turnum, &c., cuidam Edmundo	“ illa per resignationem prædicti
“ nuper Comiti Arundelliæ, ut filio	“ Johannis de Kyrkeby, Abbatissa
“ et heredi, &c. Et de ipso	“ de Shaftoniæ quæ tunc fuit, pre-
“ Edmundo descendit advocatio	“ decessor prædictæ nunc Abbatissæ,
“ præsentandi per turnum, &c., isti	“ præsentavit ad eandem quendam
“ Ricardo qui nunc sequitur, ut	“ Robertum de Weyville, clericum
“ filio et heredi, &c. Et postmodum,	“ suum, qui ad præsentationem
“ vacante ecclesia illa per mortem	“ suam fuit admissus et institutus
“ prædicti Walteri, Abbatissa Shaf-	“ tempore ejusdem Regis nunc, per
“ toniæ quæ tunc fuit, predecessor	“ cuius mortem prædicta ecclesia
“ prædictæ nunc Abbatissæ, usur-	“ modo vacat. Et quia ista vacatio
“ pando super prædictum Ricardum	“ est turnus præfatum Comitem
“ nunc Comitem, consanguineum	“ contingens virtute composi-
“ et heredem prædicti Ricardi fits	“ tionis prædictæ pertinet ad ipsum
“ Aleyn, tempore quo idem Ricardus	“ Comitem ad ecclesiam illam pre-
“ nunc Comes fuit infra statem,	“ sentare, prædicta Abbatissa ipsum
“ &c., præsentavit ad eandem quen-	“ injuste impedit.”
“ dam Johannem Hervy, clericum	“ I., eaux.

No. 16.

A.D. 1346. thing to that; judgment.—*Derworthy*. We do not admit the composition, but we tell you that we and our predecessors were seised of the advowson from time whereof there is no memory, *absque hoc* that the person whom he alleges to have been presented by his grandfather was admitted on his presentation.—*Haveryngton*. Ready, &c., that he was admitted on the presentation of our grandfather.—And so to the country.

Quare impedit. § The Earl of Arundel brought a *Quare impedit* against the Abbess of Burnham,¹ counting that John his ancestor and the Abbess's predecessor were seised of the advowson, and made a composition to the effect that the Abbess and her successors should present on the two next vacancies, and John and his heirs on the third, and so interchangeably for ever. And he counted that the Abbess's predecessor, in accordance with the composition, presented twice, and afterwards John on the third vacancy, and showed afterwards that by reason of presentations made by

¹ The Abbess of Shaftesbury, according to the record. See p. 181, note 2.

No. 16

ienz; jugement.—*Der.* Nous ne conissons pas la A.D. 1346
omposicioun, mes nous vous dioms qe nous et noz
redecessours fumes seisiz del avoweson de temps
ount il ny ad memore, saunz ceo qe celuy qil dit
e fut presente par son aiel fut resceu a son
resentement.¹—*Har.* Qil fut resceu al presentement
ostre aiel, prest, &c.—*Et sic ad patriam, &c.*²

§ Le³ Count Darundelle porta *Quare impedit* vers *Quare impedit.*
abbesse de Brimham, countant qe J. soun auncestre
t la predecessoresse Labbesse furent seisiz del
voesoun, et firent composicioun qe Labbesse et ses
accessours presentassent a les deux procheinz
oidaunes, et J. et ses heirs a la terce, et issint entre-
iaungeablement a touz jours. Et counta qe la predecessoresse,
&c., par la composicioun, presenta deux
ith, et puis J. a la terce, et moustra apres par

¹ The plea on behalf of the Abbess as "non cognoscendo seisinam prædicti Johannis fitz Aleyn nec alicujus Abbatissæ loci prædicti de advocatione prædictæ fuisse in communi, &c., nec aliquam compositionem inter ipsum Johannem et aliquam Abbatissam de præsentatione ecclesiæ prædictæ factam fuisse sicut idem Comes per narrationem suam supponit, dicit quod ipsa Abbatissa et prædecessores sue, a tempore quo non extat memoria, fuerunt integræ advocatae ecclesiæ prædictæ, et tanquam integræ advocatae præsentarunt ad eandem ecclesiam, et præsentati ad earum præsentationem admissi, &c. Et dicit quod, ubi prædictus Comes par narrationem suam prædictam supponit quod prædictus Robertus de Leycestre fuit admissus et institutus in ecclesia prædicta ad præsentationem prædicti Ricardi fitz Aleyn, idem Robertus fuit

" admissus et institutus in ecclesia
" prædicta ad præsentationem
" cuiusdam Mabillæ tunc Abbatissæ
" Shaftoniæ, prædecessoris Abba-
" tissæ nunc, et non ad præsen-
" tationem prædicti Ricardi Comitis,
" &c. Et hoc parata est verificare,
" unde petit judicium, et pro præ-
" dictis præsentationibus cognitis
" breve Episcopo, &c."

² The replication upon which issue was joined was, according to the record:—" Comes dicit quod prædictus Robertus de Leicestre fuit admissus et institutus in ecclesia prædicta ad præsentationem prædicti Ricardi fitz Aleyn Comitis, &c., prout ipse superius narravit, et non ad præsentationem prædictæ Mabillæ Abbatissæ, &c."

The *Venire* was awarded, but nothing further appears on the roll.

³ This report of the case is from L., and C.

No. 17.

A.D. 1346. two of the Abbess's predecessors, and of usurpation into their own hands, this was the ninth vacancy. And he made the descent from John to himself, and said that so it belonged to him to present.—And exception was taken to the count on the ground that it did not affirm any possession of the patronage in those who made the composition.—This exception was not allowed.—Afterwards judgment was demanded on the ground that the Earl did not produce any specialty of the composition between persons who were strangers in blood.—This exception was not allowed.—*Derworthy*. We tell you that the Abbess and her predecessors have from all time been seised of this advowson, *absque hoc* that the person whom he supposes to have been presented in accordance with the composition (which composition we do not admit) was admitted on the presentation of John, his ancestor; and on the presentations admitted to have been made by us we pray a writ to the Bishop.—*Grene*. He was admitted on the presentation of John¹; ready, &c.—And the other side said the contrary.

Voucher (17.) § In London one foreign to the city was vouched, and the parties were adjourned into the Common Bench, as the Statute of Gloucester² purports. And process was made in the Bench as far as the *Sequatur suo periculo*, when the Sheriff returned that the vouchee was dead. And, because the tenant had it at his election either to plead in chief or to vouch the deceased vouchee's heir, the parol was remanded into London. And, even though he should revouch the heir, he will be again adjourned into the Bench.

Voucher. § Note that, on the voucher, in the county of Chester,³ of a person foreign to the county, the Sheriff testified in return to the *Cape ad valentiam* in the Common Bench that the vouchee was dead, and the defendant admitted the fact. And the parol was remanded into the county.

¹ John's son, according to the record. | corrected by Stat., 9 Edw. I.

² 6 Edw. I. (Stat. Glouc.), c. 12, | ³ See p. 187, note 7. See 2 Inst., 324.

No. 17.

presentements fet par les deux¹ predecessoresses, A.D. 1346.
 &c., qe par surprise qen lour tenures demene cest la
 ix^{me} voidaunce. Et fist la descente de J. a luy, et
 issint appent a luy a presenter.—Et le count est
 challenge de ceo qil nafferma pas lour possessiouen
 en lavowere qe firent² la composiciooun.—*Non allocatur.*
 —Puis fuit demande jugement del houre qil ne
 moustra pas especialte de la composiciooun entre
 ces qe sount estranges de sank.—*Non allocatur.*
Der. Nous vous dioms qe Labbesse et ses predecessoresses de tut temps ount este seisiz de ceste
 avowesoun, saunz ceo qe celuy qil suppose qe par la
 composiciooun, quel nous conissons pas, fuit resceu
 al presentement J.³ soun auncestre; et sur les
 presentements conutz a nous prioms brief al Evesqe.
Grene. Il fuit resceu al presentement J.; prest,
 &c.—*Et alii e contra.*

(17.)⁴ § En Loundres forein fut vouche, et ajourne Voucher.
 en comune Baunk, come lestatut de Gloucestre⁵ voet.
 Et proces fait en Baunk tanqal *Sequatur suo periculo*
 qe le Vicounte retorna qe il fut mort. Et, pur
 ceo qe le tenant fut en eleccion ou de pleder en
 chief ou de voucher soun heir, la paroule fut
 remande en Loundres. Et mes qil revouche leir⁶
 il serra ajourne en Baunk, &c.

§ *Nota*⁷ qe sur voucher de forein el Counte de Voucher.
 Cestre en Comune Baunk al *Cape ad ralentiam* le
 Vicounte⁸ tesmoigna qe le vouche est mort, et le
 demandant le conust. Et la paroule⁹ est remaunde.

¹ deux is omitted from C.

² L., furent.

³ J. is omitted from L.

⁴ From H., and I., until otherwise stated.

⁵ MSS. of Y.B., Gavelk.

⁶ I., le heir.

⁷ This report is from L., and C.

Though the foreign voucher is here described as having been in county of Chester, and in the other report as having been in London, the two appear to be reports of one and the same case.

⁸ C., Viscounte.

⁹ L., parol.

No. 18.

A.D. 1346 And the COURT would not permit a revoucher in the Common Bench in this case.—And observe that on the first day an essoin was adjudged, and a day was given in the Common Bench for the tenant.—See below in the next term.

Debt against executors. (18.) § A writ of Debt was brought against two executors. At the return of the Grand Distress one of them appeared and said, by *Moubray*, that he was not executor, and had not administration of the goods of the deceased.—*Grene*. You see plainly how our suit is taken against two, and the Statute¹ purports that on the return of the Grand Distress the one who appears shall answer, and, if the decision be against him, the plaintiff shall have judgment as well against the one who is out of Court as against him; and, since you have not denied that the other, who is out of Court, has goods of the deceased in his hands, we do not understand that we have any need to answer to that which you have said.—*STOUFFORD*. He has to plead for himself, and not for another person; and even though he be executor and will not administer, it is not necessary that he should be so named individually (but it is otherwise with regard to naming the executors collectively) and therefore, since you have named him, he discharges himself by the non-administration, without having regard to the question whether the other has administered or not.—Therefore the plaintiff was put to answer over, and said, by *Grene*, that the goods of the deceased came into his hands; ready, &c.—*Moubray*. Ready, &c., that the goods never came into our hand as executor.—*WILLOUGHBY*. Since you do not deny that the goods came into your hand, you shall not be admitted to say that they did not come to you as executor, without showing how they did come to you for some other

¹ 9 Edw. III., St. 1, c. 3.

No. 18.

Et Court ceinz ne voet soeffrere revoucher el cas.—A.D. 1346.
Et ride al primer jour une essone ajuge, et adjourne
ceinz pur le tenant.—*Infra proximo termino.*¹

(18.)² § Dette porte vers ij executours. A la ^{Dette vers} grande⁴ destresse retourne lun vint et dit, par, ^{execu-} ^{tours.}³ *Moubray*, qe il ne fut pas executour, ne administracion avoit des biens le mort.—*Grene*. Vous veietz bien coment nostre sute est pris vers ij, et lestatut voet qe a la graunde⁴ destresse retourne celi qe vient respondra, et, sil soit atteint, le pleintif avera jugement auxi bien vers celi qest hors de Court come vers lui; et, de puis qe vous navez pas dedit qe lautre, qest hors de Court, nad de biens le mort entre maynes, nentendoms pas qe a ceo qe vous avez dit eyoms meister a respondre.—*Stouf*. Il ad a pleder pur luy mesme et nemye pur autre personne; et, mesqil soit executour et ne voet administrer, il ne covient pas qil soit nome par voie de defens, mes autre est par voie de pleine,⁵ par quei, puis qe vous lavez nome, par la noun administracion il se descharge, saunz aver regarde le quel qe lautre eit administre ou nient.—Par quei le pleintif fut mys autre, et dit, par *Grene*, qe les biens le mort deviendrent en ses mayns; prest, &c.—*Moubray*. Qe les biens ne vindrent unques en nostre mayn come executour prest, &c.—*Wilby*. Puis qe vous ne dedites pas qe les biens ne devindrent en vostre mayn, a dire qils ne vous vindrent pas come executour, saunz moustrar coment ils vindrent par autre cause, ne

¹ The reference appears to be to Y.B., Trin., 20 Edw. III., No. 4.

The foreign voucher is there again described as being in London.

² From H., and I., until otherwise stated.

³ The words vers executours are omitted from H.

⁴ I., graunt.

⁵ H., plee.

No. 19.

A.D. 1346. cause.—Therefore he said that the goods never came into his hand; ready, &c.—And the other side said the contrary.

Debt.

§ Debt against A. and B., executors.—*Huse*. They never administered, nor did the goods of the deceased, after his death, come into their hands as executors; ready, &c. Judgment whether they shall be charged.—*Grene*. The writ is brought against them, and others who do not appear, and who possibly have assets, and a judgment in our favour will be given against the others, on their plea, as well as against them, and therefore this is not an answer.—This exception was not allowed.—*Grene*. Then you see plainly that they do not deny that they are named as executors, nor that the goods of the deceased came into their hands, and though they say that it was not as executors that the goods came into their hands, it will not be understood that they obtained possession of the goods in any other way than as executors; therefore, since nothing else is shown by them, judgment whether they shall be admitted to such an averment.—*Huse*. Although the testator named us as executors, we are not on that account chargeable if we have not administered and taken possession of his goods as executors, and it is possible that we have, by purchase or other contract, some goods which were his.—*WILLOUGHBY*. Show that to be so.—*Huse*. The goods of the deceased did not come into our hand after his decease; ready, &c.—And the other side said the contrary.

Error.

(19.) § A *Scire facias* upon a fine was sued in the Common Bench for Constance de Neville, who was in remainder, and one prayed to be admitted to defend his right by reason of the default of the tenant. He died, and his heir came afterwards and said that he was under age, and that the reversion had descended to him, and prayed to be admitted,

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serrez resceu.—Par quei il dit qe les biens ne devien- A.D. 1346.
drent unques ou sa mayn; prest, &c.—*Et alii e contra.*

§ Dette¹ vers A. et B. executours.—*Huse.* Ils nam- Dette.
mistrerent unques, ne les biens le mort apres sa mort
ne devyndreint pas en lour meins come executours;
prest, &c. Jugement sils serrount charges.—*Grene.*
Le brief est porte² vers eux, et autres qe ne veignent³
pas, qe par cas ount assetz, et nostre jugement se fra
vers les autres, sur lour plee, si bien come vers eux,
par qai ceo nest pas respouns.—*Non allocatur.*—*Grene.*
Donques vous veietz bien coment ils ne dedient pas qils
ne sount executours nomes, ne qe les biens le mort
devyndreint en lour meins, et coment qils dient noun
pas come as executours, ceo ne serra pas entendu qe
par autre manere ils avyndreint a les biens mes come
executours; par qai del houre qautre chose⁴ deux⁵
nest moustre par qai jugement si a tiel averement,
&c.—*Huse.* Coment qe le testatour nous noma execu-
tors, par taunt nous ne sumes pas chargeable si
nous nussons administre et occupe ses biens come
executours, et par cas nous avoms des biens qe furent
a luy dachat ou d'autre contracte.—*WILBY.* Moustretz
cella.—*Huse.* Les biens le mort ne devyndreint pas en
nostre mein apres sa mort; prest, &c.—*Et alii e contra.*

(19.)⁶ § Un *Scire facias* hors dune fine pur Error.
Custance de Neville en remeindre fut suy en [Fitz.,
Comune Baunk, et par la defaute le tenant un pria
destre resceu, et murust, et son heir vient apres,⁷
et dit qil fut deinz age, et la reversion luy est
descendu, et pria destre resceu, &c., et fut resceu.

¹ This report of the case is from L., and C.

² porte is omitted from C.

³ C., viegnent.

⁴ chose is omitted from C.

⁵ C., de eux.

⁶ From H., and I. The report
may be in continuation of Y.B.,
Mich., 16 Edw. III., No. 54.

⁷ In the MSS. the words et fut
resceu are inserted after the word
apres, and not at the end of the
sentence as in the text above.

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A.D. 1346. and was admitted. And because he was under age he prayed his age. And, notwithstanding this, the Justices of the Common Bench awarded execution. And now errors were assigned [in the King's Bench]: one (said Counsel) in that the Justices of the Common Bench ought to have put the parol without delay by reason of our non-age; another in that, even though we ought not to have had our age allowed, inasmuch as they awarded execution when we were ready to answer if they were minded to give judgment that we should not have our age, they therein erred.—*Grene*. You see plainly how the fine is the original of this plea, and it has not been sued into this Court, and for that reason a full record has not been sent; and therefore we do not understand that before you have a full record you will proceed to the examination of the errors assigned.—*Skipwith*. Our object is to reverse not the fine, but the judgment in the *Scire facias*; and whatever is parcel of that is entered on the roll which is sent.—*Grene*. In a Formedon in the remainder, if *proferit* is made of a specialty, it must be entered on the roll, and if the object is to reverse the judgment the specialty itself must be caused to come as parcel of the record; and moreover, if the law be such that he ought not to have had his age, even though they erred in that they awarded execution when he ought to have been put to answer, yet if the judgment be now reversed for that reason, and he have restitution, he will be in the same position with regard to the plea as he would have been if that other award had then been made, that is to say, that he should answer to our action, and that he cannot do unless the fine or the tenor of it be in this Court; therefore, &c.—*Skipwith*. When that point is reached at which it is necessary to answer to your fine, it will be the time to cause it to come, and not before;

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Et pur ceo qil fut deinz age il pria son age. Et, A.D. 1346
non obstante, ils agarderent execucion. Et ore errours
 assinez : un de ceo qils duissent aver mys la
 paroule saunz jour par nostre nounage ; un autre,
 mesqe nous ne duissons pas aver eu nostre age, en
 taunt qils agarderent execucion, la ou nous fumes
 prest a respondre sils voleient aver agarde qe nous
 naveroms pas nostre age, et en taunt errerent ils.—
Grene. Vous veietz bien coment la fine est original
 de ceo plee, quel nest pas suy ceynz, et en taunt
 nest pas pleyn recorde maunde ; par quei nentendoms
 pas qe avant qe vous eiez pleyn recorde voillez al
 examinement des errours aler.—*Skip*. Nous ne sumes
 pas a reverser la fine mes le jugement en le *Scire
 facias* ; et quanquest parcel de icelle est entre en roulle
 quel est maunde.—*Grene*. En Fourme de doun en
 remeindre, si especialte soit mys avant, il covient qil
 soit enroulle, et sil soit a reverser il covent qil soit
 ait venir come parcelle del recorde ; et auxi, si la
 ei soit tiele qil ne dust pas aver son age, mesqils
 rrerent de ceo qils agarderent execucion la ou il
 ust aver este mys a respondre, et par cele cause
 jugement a ore soit reverse, et il eit restitucion,
 serra en mesme le cours de ple come il serra
 i cel agard ust este fait adonques, saver a respondre
 nostre accion, et ceo ne poet il faire si la fine
 u la tenur de icelle [ne] fut ceinz ; par quei.—*Skip*.
 Juant homme vient a cel point qe nous covient
 espondre a vostre fine, donques est ceo temps del
 aire venir, et avant nent ; et auxi le recorde

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A.D. 1346. and, moreover, the record recites the writ of *Scire facias* in which the force of the fine for giving you execution is included; and the tenor of the fine will never be entered in the record in this Court, but the fine will remain on the files, as matter which is not parcel of the record; therefore, &c.—*Grene*. With regard to the same Court what you say is true—it will remain separate from the record on a file; but, as soon as the record is sent out of that Court, whatever is parcel of the record will be sent; and, inasmuch as this fine is the original of the whole, and it has not been sent, judgment.—*R. Thorpe*. We were admitted to defend by reason of the default of K., and then, when the judgment was rendered against us, we at that time first became a party, and were aggrieved, and it is in respect of that judgment that error is assigned; and we have nothing to do with anything which occurred before our admission to defend, and do not assign any default in respect thereof; nor can you assign any default or variance in respect of your own suit on which you recovered. And, moreover, as to that which you say that the Justices have not sent a full record, I say that the full record must be understood to be all that is and remains in their possession; but the fine and the note of it must remain in the possession of the Chief Clerk *inter recorda sine die*, and not in the possession of the Justices. And so it is with respect to a writ of Error sued on a *Præcipe quod reddat*, because the original writ, which remains in the possession of the Chief Clerk, will not be sent into the King's Bench, nor will the judicial writs or the essoins any more; wherefore, &c. On the other hand you have replied as to the errors, saying that the judgment was a good one, and therefore you have passed the time for taking the exception [as to a full record].—*Scot*, *ad idem*. If the judgment were to be reversed, it

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recite le brief de *Scire facias* deinz quel la force de A.D. 1346.
la fine par vous doner execucion est compris ; et la
tenure de la fine ne serra jammes entre en le recordre
en cele Place, mes demura en filas come chose
nient parcelle ; par quei, &c.—*Grene*. En mesme la
Place vous ditez verite : il demura severe del record
en filace ; mes, quant qe le recordre serra maunde
[hors de cel Place, qanquest parcele del recordre serra
maunde ;]¹ et de ceo qe ceo est loriginal de tut, qe
nest pas maunde, jugement.—*R. Thorpe*. Nous fumes
resceu par la defaute de K., et dounques quant le
jugement fut rendu devers nous donges fumes nous
primes partie, et greve, de quel jugement lerrour est
assigne ; et de nul rienz qe fut avant nostre receite
navoms qe faire, ne defaute nassignoms ; ne vous de
vostre sute demene, sur quei vous recoveristes ne poez
defaute ne variaunce assigner. Et auxi a ceo qe
vous parlez qe lez Justices nount pas maunde, &c.,
jeo dye qe ceo est entendre quanquest et demoert
vers eux ; mes la fine et la note deivent demurer
vers le Chief Clerk *inter recorda sine die*, et noun
pas vers les Justices. Et issint est il dun Errour
suy en un *Præcipe quod reddat*, qar le brief original,
qe demoert vers le Chief Clerk, ne serra pas maunde
en baunk le Roi, ne les briefs judiciais nient le
plus, ne les essones ; par quei, &c. D'autre part
vous avez replie a les erreurs, parlaunt qe il fut
bon jugement, par quei vous estes passe le chalange.
— *Scot, ad idem*. Si le jugement serra reverse,

¹ The words between brackets are omitted from I.

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A.D. 1846. would still be at the election of Constance to sue a new *Scire facias* in this Court, or in the Common Bench, and, although the fine be not in this Court, still suit by *Scire facias* will be given her in this Court; but, if the fine were in this Court, she would be deprived of suit in the Common Bench, and so her power of suing would be restricted, and that would be contrary to what is right. And even though we were to proceed to examine the errors on the reply that the judgment was a good one, still if afterwards we saw that it was necessary to have the tenor of the fine, we could cause it to come. Therefore say something else, if you have anything else to say, wherefore we should not proceed to the examination of the errors assigned.—*Grene*. By the fine upon which execution was awarded to Constance the remainder was limited to her and to William formerly her husband, and to William's heirs; so according to that recovery which was adjudged for Constance the freehold vested in her, while the fee and the right were with one Richard son and heir of William, without whom she cannot answer, and she prays aid of him.—*R. Thorpe*. Your prayer is made by reason of an estate limited before the erroneous judgment, which judgment is the cause of our present suit, and to which judgment you were yourself a party, and this Richard of whom you speak was altogether a stranger to it; therefore, &c.—*Grene*. The inheritance came to Richard at the same time as that at which the freehold accrued to us by the judgment, and so the cause of our prayer arises out of matter which has occurred since the judgment on which your suit is taken.—But, nevertheless, the prayer was not allowed.—And, before this aid-prayer *Grene* alleged that the land had been recovered by default against Katharine, who was alone party to the original, and was still living, and was aggrieved by

No. 19.

unquore serra il en le eleccion de Custaunce de A.D. 1346. suyre un *Scire facias* de novel ceinz, ou en Comune Baunk, et, tut ne soit la fyne ycy, unqore la sute li serra done ceinz par le *Scire facias*; mes, si la fyne fut ceinz, la sute serreit tollet en Comune Baunk, et issint serra sa sute restreint, qe serra countre resoun. Et mesqe nous ailloms dexaminer les errorrs, parlaunt qil fut bon jugement, unqore apres si nous veoms qil bosoigne daver la tenour de la fine, nous le ferroms venir.¹ Par quei ditez autre chose, si rienz avez, pur quei nous nirroms al examinement, &c.—*Grene*. Par la fine hors de quel execucion fut [Fitz.,
agarde a Custaunce le remeindre fut taille a luy et aide, 29.] a William jadis soun baron, et as heirs William; issint par cel recoverir qe se tailla pur C. frank tenement se vesti en luy, et le fee et dreit a un Richard fitz et heir W., saunz qe ele ne poet respondre, et prie eide de luy.—*R. Thorpe*.² Vostre priere est par cause dun estat taille avant le jugement erroigne, quel jugement est cause de nostre sute a ore, a quel jugement vous mesmes futes partie, et celi R. de qe vous parlez a ceo tut estraunge; par quei.—*Grene*. Lenheritemeint aynt a R. a mesme le temps qe le frank tenement nous acrust par le jugement, et issi est la cause de nostre priere par chose avenu puis le jugement dount vostre sute est pris.—*Et tamen non allocatur*.—Mes, avant ceste eide priere, *Grene* alleggea qe la terre fut recoveri vers Katerine par defaute, qe soulement estoit partie al original, qest unqore en vie et greve par le jugement rendu

¹ H., Venier. | ² I., Richem.

No. 20.

A.D. 1846. the judgment given on default, in respect of which an action is given to her by statute¹; and (said *Grene*) even though the statute¹ gives you admission to defend your right, still by that statute no suit is given of such a kind that judgment rendered against another can be annulled, and he can be put back in possession, when admission of another kind is given to him as above; therefore, &c.—W. THORPE. Which is your meaning—that he will not have any suit while Katharine is living, or that he will have suit, but that execution for him will be stayed until after the death of Katharine, who lost and was able to lose the freehold for her life?—*Grene*. That he will not have any suit while Katharine is living, because he is not yet aggrieved, but Katharine only is aggrieved, and to her suit is now given, and a release to her bars Philip for the life of Katharine.—W. THORPE to *Grene*. Will you say anything else wherefore we should not proceed to examine the errors?—And *Grene* said nothing more.—And, because the Court had so often asked, and they were only being delayed for a length of time, W. THORPE, therefore, said that they would not so ask the party anything more, but that they would examine the errors in respect of which the judge who rendered the judgment was moved; and he said that with regard to the exceptions which had been taken the Court would weigh them all according to their value, but that the Court desired to bring the business to a conclusion.—And he gave a day over, &c.

Appeal. (20.) § A man and his wife sued an Appeal against another man and his wife; and the writ was, at the end, in the words:—“*et unde*” the wife plaintiff “*cam appellat.*” And they counted, by *Rokele*, that the wife who was plaintiff appealed the wife who was

¹ 13 Edw. I. (Westm. 2), c. 3.

No. 20.

sur defaute, de quei accion est done a luy par A.D. 1346.
 statut; et mesqe lestatut vous doune la resceite a
 defendre vostre dreit, unquore par cel estatut tiele
 sute nest pas done par quel le jugement rendu
 vers autre serra annulle, et il remys, &c., la ou
 autre receite lui est done *ut supra*; par quei.—
 W. THORPE. Le quel est vostre entente, qil navera
 nulle sute, vivant K., ou qil avera, mes qe execucion
 demura pur luy tanqe apres la mort Katerine, qe
 perdi et poeit perdre le fraunk tenement pur sa vie?
 —*Grene*. Qil navera nulle seute, vivant K., qar il
 nest pas unqore greve, mes K. *tantum*, a qil la sute
 est ore done a qil relees barre Philipe pur la vie
 K.—W. THORPE a *Grene*.¹ Voillez pluis dire pur quei
 nous nirroms a² les errours?—Et il dit nent plus.
 —Et pur ceo qe la Court avoit issint sovent³
 demande, et ils ne furent qe taries longement, par
 quei W. THORPE dit qe ils ne voleint pluis issint
 demander de la partie, mes qe ils voleint examiner
 les errours de quei le juge qe rendi le jugement
 fut mewe; et dit qen dreit de les excepcions qe
 furent dones qils voleint peiser touz solonc lour
 values, eins qils voleint terminer la bosoigne.—
 Et dona jour outre, &c.

(20.)⁴ § Un homme et sa femme suirent un Appel Appel.
 vers un autre homme et sa femme; et le brief [Fitz.,
 voileit, au fyn, et unde la femme⁵ pleintif *eam* 252.]
appellat. Et counterent,⁶ par *Rokele*, qe la femme
 pleintif⁷ appella la femme le defendant de maheym,

¹ The words a *Grene* are omitted from I.

² I., pur.

³ sovent is omitted from I.

⁴ From H., and I.

⁵ femme is omitted from I.

⁶ H., counta.

⁷ pleintif is omitted from I.

Nos. 21-23.

A.D. 1346. defendant of maihem, to wit, of her right thumb cut off, &c.—*R. Thorpe*. Judgment of the writ: for you see plainly how the husband and his wife sue the writ, and they have framed the Appeal for the wife, omitting the husband, and also they have appealed the wife alone as defendant, without supposing any tort in the husband; judgment.—*Rokele*. Since we have supposed the maihem on behalf of the wife alone, we understand that the Appeal should be framed on her behalf alone; judgment.—W. THORPE. A tort committed against a woman before she is covert baron is supposed to be committed against her alone, but when committed afterwards against both of them, and so also with respect to the defendants, and therefore take nothing by your writ.

Trespass. (21.) § A writ of Trespass was brought. The Sheriff returned that the defendant had nothing, but that he was a clerk beneficed in the bishopric of L. The plaintiff had the *Cape* without sending to the Bishop of L.

Voucher. (22.) § A tenant vouched himself for the reason that his father gave the land to him in tail, and his father was dead, and in order to save the estate tail he vouched himself as heir of the donor. The defendant demanded judgment, since the tenant did not produce any specialty to show the form of the gift, whether he should be admitted to vouch himself without showing a specialty. Afterwards the tenant waived the voucher.

Attaint. (23.) § Robert Hovel sued an Attaint. The Sheriff returned the writ as having been received too late, and therefore he sued an *Alias* writ, and the defendant sued another *Alias* writ. And the Sheriff returned the one *Alias* writ as having been received too late, and the other as having been served, and returned a panel.—*R. Thorpe*. We say, on behalf of Robert,

Nos. 21-28.

saver, de son pouce destre coupe, &c.—[R.] *Thorpe*. A.D. 1346.
 Jugement du brief: qar vous veiez bien coment le baroun et sa femme siwent le brief, et ils ount fourme lappel pur la femme, entrelessaunt le baroun, et auxint soulement [appele le femme le defendant, saunz supposer tort en le baroun; jugement.—*Rokele*. Puisqe nous avoms]¹ suppose le mahey² soulement³ pur la femme, nous entendoms pur luy serra soulement lappel fourme; jugement.—W.⁴ *THORPE*. Tort⁵ fait⁶ a la femme avant la coverture le baroun le suppose a lui soulement fait, mes puis a eux deux, et auxi de la part de les defendauntz, par quei ne preignez riens par vostre brief.

(21.)⁷ § Trespas porte. Le Vicounte retourna qe le Trespas. defendant navoit rienz, mes fut cleric benefice *in Episcopatu de L.* Le pleintif avoit le *Cape* saunz maunder al Evesqe de L.

(22.)⁷ § Le tenant voucha luy mesme par cause qe Voucher. soun pere dona la terre a luy en la taille, et soun pere est mort, et pur sauver la taille voucha luy mesme come heir le donour. Le demandant demanda jugement, del houre qil ne moustre pas especialte de la fourme, si a voucher luy mesme saunz especialte serra resceu. Puis il weyva le voucher.

(23.)⁷ § Robert Hovel suyst une Atteynte.⁸ Le Atteinte. Vicounte retourna le brief *tarde*, par quei il suist un [Fitz., *Sicut alias*, et le defendant suyst un autre *Sicut alias*. 42.] Et le Vicounte retourna lun⁹ *Sicut alias* tarde, et lautre il servi, et retourna panel.—[R.] *Thorpe*. Nous dioms pur R. qe le brief qest servy est tuy

¹ The words between brackets are omitted from L.

² I., mayn.

³ Soulement is omitted from I.

⁴ W. is omitted from H.

⁵ H., De trespass.

⁶ fait is omitted from I.

⁷ From H., and I.

⁸ H., *Venire facias* in different ink after erasure.

⁹ lun is omitted from I.

No. 24.

A.D. 1846. that the writ which has been served was sued on behalf of the defendant, and that the knights who are impanelled are his relations, and we disavow the suing of that writ; and, inasmuch as the Sheriff has returned our writ as having been received too late, we pray a *Pluries* writ.—And he had it, because the defendant had not yet a day in Court by reason of the non-serving of the writ, &c.

Trespass. (24.) § In the Exchequer a yeoman of one of the Barons sued a writ of Trespass for battery.—*R. Thorpe.* Judgment of the writ: for, if the plaintiff were nonsuited, he and the pledges to prosecute would be amerced, and according to the writ there are no pledges found to prosecute; judgment.—*Skipwith.* The custom of this Court is that no pledge shall be found for the Barons or for their servants.—For that reason, as to that point, the writ was adjudged good.—*Grene.* Again judgment of the writ: for the writ supposes the plaintiff to be the yeoman of one of the Barons; and he might be the Baron's yeoman, and not his servant; and you ought not to hold plea in this Court unless he be of the Baron's household, and, inasmuch as the writ does not make him the Baron's servant, judgment.—*Skipwith.* We suppose that he is the Baron's yeoman, which will be understood to be the Baron's servant, unless the reverse is pleaded; and, inasmuch as you do not deny it, and allege nothing else in fact which would disprove our action, judgment.—Therefore they caused to be read the statute relating to this franchise, which purported that King Henry III. had granted to the Barons that trespasses committed against them and their men should be determined in the Exchequer before them; and for that reason the defendants were put to answer over.—Therefore *Grene* said Not Guilty.—And the other side said the contrary.

No. 24.

pur le defendant, et ceux qe sont enpaneles sount cosyns,¹ A.D. 1346.
 quel sute² nous desavowoms; et de ceo qe le Vicounte
 ad retourne nostre brief *tarde* nous prioms *Sicut pluries*.
 —Et il lavoit pur ceo qe le defendant navoit pas
 unquore jour en Court par le nounservir de brief, &c.

(24.)³ § En Leschequier un vadlet dun des Barons Trans.
 suyst brief de Trans de batre.—[R.] Thorpe. Jugement [Fitz.,
 de brief: qar, si le plaintif fut nounsey, il et les plegges⁴ *Privilege*,
 serront amerciez, et par le brief ne sount pas plegges
 trovez a suir; jugement.—Skyp. Le usage de ceste
 place est qe nulle plegge serra⁴ trove pur eux ne
 pur lour servauntz.—Par quei, quant a cel, le brief
 fut agarde bon.—Grene. Unquore jugement de brief:
 qar le brief lui suppose vadlet un des Barons; et
 il put estre vadlet, et nient son servaunt; et ceinz
 vous ne devetz tenir plee sil ne soit servaunt de soun
 maynpast, et de ceo qe le brief ne luy fait pas son⁵
 servaunt, jugement.—Skip. Nous supposoms qil est⁶
 vadlet, quel serra entendu son servaunt, si le revers
 ne soit plede; et, de ceo qe vous ne dedites pas, et
 autre rienz alleggez en fait quel desaproveroit nostre
 accion, jugement.—Par quei ils fesoint lire lestatut
 de cele fraunchise, qe voleit qe le Roi H. les avoit
 graunte qe des trespass faites a eux et a lour hommes
 serra termine en Leschequer devant eux: et par cele
 cause ils furent mys outre.—Par quei il dit de
 riens coupable.—Et alii e contra.⁷

¹ H., noz cosyns.

² sute is omitted from I.

³ From H., and I., but compared with the Plea Roll, Exchequer of Pleas, 20 Edward III. "Adhuc "de Crastino Paschæ anno xx^o." There is a pencil numbering of the skin "36," but this is no part of the original Exchequer record. The action was brought by Ralph de Tyderlegh, "valletto Alani de "Esshe, Baronis hujus Scaccarii,"

against Walter, Abbot of Glastonbury, William Wulmyngton "commonachus ejusdem Abbatis," and twenty-three others, who were to answer together with "Johanne "Bolt de Glastonia."

⁴ serra is omitted from I.

⁵ son is omitted from I.

⁶ I., soit.

⁷ The pleas in abatement of the writ and the reading of the "statute" are not mentioned in

No. 25.

A.D. 1346. (25.) § A woman recovered by a writ of Dower, in a Court of Ancient Demesne, against Herbert de St. Quintin, by reason whereof Herbert sued a writ of False Judgment, with the result that the judgment given in the Court of Ancient Demesne was reversed. And, because the woman had held the land for two years between the first judgment and the reversal of it, enquiry was made as to the yearly value of the tenements, and their value for the two years was assessed at twenty marks. Therefore judgment was given that Herbert should recover the issues of the land in the meantime, to wit, the twenty marks. And now Herbert sued a *Scire facias*, in respect of the twenty marks against the same woman.—*Richemunde*. You ought not to have execution, for we tell you that we ourselves brought a writ of Right against you in the Court of Ancient Demesne, and made protestation that our suit was in the nature of a *Cui in rita*; process was continued until we recovered by action tried, and that in respect of an alienation made by our husband a long time before that judgment was rendered of which you think to have execution; and we do not understand, since we have recovered the principal matter in virtue of a right of earlier date than your recovery is, that you ought to have execution of the issues of the same land by reason of a judgment given in the meantime.—*Seton*. You see plainly how he pleads in bar a recovery on a writ in a Court of Ancient Demesne, which is not of record in this Court, and therefore we have no need to answer to that which he has said. And, moreover, it is supposed by our writ that she recovered the same land against us by a writ of Dower by reason of the endowment of the same husband in respect of *Scire facias*

No. 25.

(25.)¹ § Une femme recoverist par un brief de A.D. 1346. Dowere, en aunciene demene, vers Herberd de Seynt *Scire facias.*² Quintyn, par quei Herberd suyst un brief de faux [Fitz., jugement, issi qe le jugement fut reverse. Et, pur *Scire facias,* ceo qe la femme avoit tenu la terre par ij aunz 123.] entre le primer jugement et le reverser, fut enquis la value des tenementz par an, et taxe les ij aunz a xx. marcs. Par quei agarde fut qe H. recoverast les issues de la terre en le mesme temps, saver, les xx. marcs. Et ore H. suist un *Scire facias* de les xx. marcs vers mesme la femme.—Rich. Vous ne devez execucion aver, qar nous vous dioms qe nous mesmes portames un brief de Dreit vers vous en la Court del auncien demene, et feismes protestacion a suir en nature de *Cui in rita*; proces continue tanqe nous recoverimes par accion trie, et ceo dune alienacion faite par nostre baron longe temps avant le jugement rendu de quel vous bietz aver execucion; et nentendoms pas qe pus qe nous avons recoveri le principal dun dreit eysne qe vostre recoverir nest qe de les issues de mesme la terre par jugement taille en le mesme temps devez execucion aver.—Setone. Vous veietz bien³ coment il plede en barre par recoverir dun brief en aunciene demene, quel nest pas de record ceins, par quei a ceo qil ad dit nous navoms mester a respondre. Et auxi par nostre brief est suppose qe ele recoverist vers nous mesme la terre par brief de Dowere del dowement mesme le baron de qi

the roll. There “Radulphus dicit
“ quod predictus Abbas et alii
“ prænominati simul cum prædicto
“ Johanne Bolt versus quem
“ narraret, si, &c..
“ vi et armis in ipsum Radulphum
“ insultum fecerunt, ipsumque
“ verberaverunt et male tracta-
“ verunt,” &c.
“ Et prædictus Abbas et alii
“ præscripti dicunt

“ quod de transgressione prædicta
“ in nullo sunt culpabiles.” Issue
was joined on this plea of Not
Guilty, and the *Venire* was awarded,
but nothing further appears on the
roll, except adjournments.

¹ From H., and I., until otherwise
stated.

² The marginal note in I. is
Dowere.

³ bien is omitted from H

No. 25.

A.D. 1346. whose alienation she supposes herself to have recovered by a *Cui in vita*, while the recovery by writ of Dower is not denied by her. Therefore she shall not be admitted to allege a recovery by *Cui in vita*, which is contrary to the recovery by writ of Dower.—But *Seton* did not dare to abide judgment on that point, and therefore he demanded judgment (inasmuch as she had confessed the judgment given against herself by which the issues were severed from the principal matter as damages, by which judgment the defendant's person was charged in respect thereof as in respect of a debt) whether he should be barred by any recovery of the land which had no relation to that for which he was then suing.—*Skipwith*. And we demand judgment, since you had judgment to recover the issues, &c., because you ought to have held the land all this time, and you have confessed that we recovered it against yourself in virtue of a right existing before the time at which your judgment was delivered, and we recovered no damages against you by our writ, and so it is proved that in law our tenancy continued during this time in respect of which you expect to have the issues, and therefore you ought not to have execution against us who are so in possession in virtue of an earlier right; and if we have no other land than the land which we recovered, it would not be right that you should have an *Elegit* in respect of that land; and, since you do not surmise that we are seised of any other land, we demand judgment whether you ought to have execution.—*HILLARY*. Since you have not denied the judgment given against yourself in respect of these issues as in respect of damages, and your recovery which you allege has no relation to them, we therefore give judgment that he do have execution, &c.

No. 25.

lalienacion ele¹ parle quel dust aver recoveri par *Cui A.D. 1346.*
in rita, quel recoverir par brief de Dowere nest pas
dedit de luy. Par quei dallegger un recoverir par
le *Cui in rita*, qe est a contrare de cele ele ne serra
pas resceu.—Mes il nosa pas sur cele demurer, par
quei il demanda jugement, del houre qe el² avoit
conu le jugement taille vers luy mesme par quel
les issues furent severetz del principal come damages,
par quel jugement la personne le defendant fut
charge de cele come dune dette, si par nule
recoverir de la terre quele ne refiert pas a ceo
dount nous siwoms ore si, &c.—*Skip.* Et nous
demandoms jugement, puis qe vous avietz³ jugement
de recoverir les issues, &c., pur⁴ ceo qe vous
duissetz aver tenu la terre tut cel temps, et avetz
conu qe nous lavoms recoveri vers vous mesmes
dun dreit eisne qe vostre jugement ne se fist, et
par nostre brief nous recoverimes nuls damages vers
vous, et issint est il prove nostre tenance en lei
continue de cel temps de quel vous bietz aver les
issues, par quei vers nous qe issi sumes eins dun
dreit de plus haut ne devetz execucion aver; et, si
nous neyoms autre terre qe la terre quel nous
recoverimes, il ne serra reson qe vous ussetz le
Elegit de cele terre; et depuis qe vous ne surmettez
pas qe nous sumes seisi d'autre nous demandoms
jugement si, &c.—*HILL.* Puis qe vous navetz pas
dedit le jugement taille vers vous mesmes de cele
come de damages, et vostre recoverir quel vous
alleggez ne refiert pas a cele, par quei nous
agardoms qil eit execucion, &c.

¹ I., dount ele.² H.. qil, instead of qe el.³ H., avetz.⁴ I., et pur.

No. 25.

A.D. 1346. § Herbert St. Quintin sued execution of twenty marks, Execution. against a woman, which were awarded to him on a writ of False Judgment rendered on a writ of Dower in his Court of Cookham.—*Skipwith*. You ought not to have execution, because we tell you that we brought a little writ of Right in the nature of a *Cui in vita* in respect of the same tenements on the ground of a conveyance made by our husband at an earlier time than that of the judgment of reversal or that of the judgment on the writ of Dower. Process thereon was continued until we recovered by action tried. And we demand judgment whether you ought to have execution against us, who are in possession in virtue of an earlier right, by reason of any judgment given in the time mean between our title and our recovery.—*Seton*. You see plainly how he alleges a judgment given in a Court of Ancient Demesne, which is not affirmed in this court by record, and therefore the law does not put us to answer to it.—This exception was not allowed, because the point was touched that this matter could be the subject of an averment to the country.—*Seton*. You see plainly how he alleges a recovery on a *Cui in vita*, which action would be contrary to his recovery on the writ of Dower, and therefore the law does not put us to answer to it.—This exception was not allowed, because such a plea, if it could have any value, ought to have been pleaded in the *Cui in vita*.—*Seton*. You see plainly that we do not demand execution of the land, but of damages recovered, which sound in the nature of debt, and are severed from the land, and therefore, even if there was any such judgment, which we do not admit, it could not oust us from execution of the damages, and therefore we demand judgment.—*Skipwith*. Then it is as we say; and we demand judgment, since you have confessed that we are in possession of the land by an earlier title, whether [you ought to have execution] in respect of damages which were awarded against us in lieu of the

No. 25.

§ Herbert¹ Seint Quintyn suyt execucion de xx A.D. 1346.
marcz, vers une femme, qe luy furent agardes en Execu-
une brief de Faux Jugement rendu en un brief de
Dowere en sa Court de Cokham.²—*Skip.* Execucion ne
devetz aver, qar nous vous dioms qe nous portames
un petit brief de Dreit en nature de *Cui in rita* de
mesmes les tenementz dun lees fait par nostre baron
de plus haut qe ne fuit cel jugement de reverser ou
le jugement en le brief de Dowere. Proces continue
tanke nous recoverimes par accion trie. Et demandoms
jugement si devers nous, qe sumes einz de dreit plus
haut, par nulle jugement taille en le mene temps entre
nostre title et nostre recoverir devetz execucion aver.
—*Setone.* Vous veietz bien coment il allegge un juge-
ment taille en auncien demene, quel nest pas afferme
ceinz par recorde, par qai a cella ley ne nous mette
pas a respongdre.—*Non allocatur,* qar fuit touche qe
cele⁴ chose purreit estre avere par pays.—*Setone.* Vous
veietz bien coment il allegge un recoverir sur *Cui in*
rata, quele accion serreit a countrere de soun recoverir
el brief de Dowere, par quei a cella ley ne nous mette
pas a respongdre.—*Non allocatur,* qar tiel ple, sil pur-
reit aver value, le devereit aver plede el *Cui in vita*.—
Setone. Vous veietz bien coment nous ne demandoms
pas execucion de la terre,⁵ mes des damages recoveris,
qe sounent en nature de dette, et sount severetz
de la terre, par qai, tut y avoit il tiel jugement,
come nous ne conissons pas, ceo ne nous poet
pas ouster dexecucion des damages, par qai nous
demandoms jugement.—*Skip.* Donques est il issint;
et nous demandoms jugement, del houre qe vous
avietz conu qe nous sumes einz en la terre par title de
plus haut, si des damages queux nous furent agardes

¹ This report of the case is from L. and C.

² The marginal note is from L. alone.

³ L., Eckham.

⁴ C., tiel.

⁵ The words de la terre are omitted from C.

No. 26.

A.D. 1346. issues of the land, in respect of which land, if you were now to be put to your action by way of writ of False Judgment, we should bar you by means of the recovery, and consequently you could not have execution against us in respect of the issues of the same land, because that would be to charge the land at an earlier time by a judgment of a later time, which could not be.—HILLARY. This land is no more chargeable than other land, but you are yourself personally charged by the judgment.—And afterwards SHARSHULLE awarded execution.

Darrein
Present
ment.

(26.) § Assise of Darrein Presentment. The plaintiff made his declaration to the effect that he was seised of the manor to which the advowson was appendant, and presented, and that afterwards the church became void, and therefore the Bishop of Salisbury, as Ordinary, provided, by reason of the period of six months having passed, in right of the plaintiff.—*Derworthy*. Judgment of the declaration, because in an Assise of Darrein Presentment, the

No. 26.

en lieu des issues de la terre, de quel terre, si A.D. 1346.
 vous fuissest a ore a vostre accion par brief de
 Faux Jugement, nous vous forclorroms par my le
 recoverir, et *per consequens* devers nous vous ne
 poietz aver execucion des issues de mesme la terre,¹
 qar ceo serreit a charger la terre de plus haut par
 un jugement de plus bas,² qe ne poet estre.—HILL.
 Ceste terre nest nient plus chargeable qautre terre,
 mes vous mesmes estes charge par le jugement.—
 Et puis SCHAR. agarda lexecucion.

(26.)³ § Assise de Drein Presentement. Le plaintif Drein
 fit sa demoustrance qil fut seisi del maner a q[ui] presentement.
 lavowesoun, &c., et presenta, et apres la eglise se [Fitz.,
 voida, par quei Levesqe de S.,⁴ come Ordiner, pur-^{Darrein}
 veust,⁵ pur le temps passe, en nostre dreit.⁶—Der.⁷ [ment, 12.]
 Jugement de la demoustraunce, qar en Assise de

¹ The words la terre are omitted from C.

² L., haut.

³ From H., and I., but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 2, d. It there appears that the Assise was brought by Eleanor, late wife of Robert de Colbere, against Reginald atte Walle, in respect of the advowson of the church of Bouclond (Buckland, by Melcombe Regis (Dorset).

⁴ MSS. of Y.B., L.

⁵ I., presenta.

⁶ The declaration was, according to the record, “ quod ipsam fuit seisia de manorio de Bouclond juxta Melecombe Regis, cum pertinentiis, ad quod advocatio ecclesiae praedictae pertinet . . . et praesentavit ad eandem quendam Johannem Lauerns de Crekkelade, clericum suum, qui ad præsentationem suam

“ fuit admissus et institutus . . .
 “ Et, vacante ecclesia illa per mortem ejusdem Johannis Laue-
 rans, contentio mota fuit inter ipsam Alianoram et quendam Ricardum de Manstone, militem, super præsentatione ad eandem, durante qua contentione inter eos tempus semestre lababatur [sic], per quod Episcopus Sarum, loci illius diocesanus, contulit ecclesiam illam, jure sibi devo- luto, cuidam Roberto de Hurle, clericu suo, ut in jure ipsius Alianoræ, et eum induxit in eadem, . . . per cuius mortem prædicta ecclesia modo vacat. Et dicit quod ipsa Alianora seisia est de manorio prædicto ad quod, &c., per quod ad ipsam pertinet ad ecclesiam illam præsentare, &c., unde petit assisam, &c.”
⁷ H., Hamound. This was Derworthy's Christian name.

No. 26.

A.D. 1346. plaintiff will commence with the last presentation, and will allege other presentations previous to that, going upwards, and here he has alleged the presentations coming downwards, as he would do in a *Quare impedit*; judgment.—*Huse*. The matter of our declaration proves that we cannot do as you say: for to commence with the provision of the Ordinary, without showing how that was in our right by a presentation previously made, would not be in due form; therefore it is necessary to commence higher up than at the last presentation.—And the declaration was adjudged good.—*Derworthy*. Still, judgment of the writ: for, in case any one other than himself or his ancestor presented the last parson, he would have a *Quare impedit*, and not a Darrein Presentment.—*Grene*. If my guardian presents, I shall have a Darrein Presentment, so also in this case.—And afterwards the writ was adjudged good.—*Skipwith*. We tell you that the person whom he supposes himself to have presented was not admitted or instituted on his presentation; judgment.—*Grene*. Sir, you see plainly how this writ is taken on the last presentation which we have supposed to have been made by the Ordinary in our right, to which presentation he has answered nothing; judgment whether we have any need to answer to that which he has said; and we pray the assise.—*SHARSHULLE*. This is an Assise of Darrein Presentment, in which even though the party say nothing you will still have the assise; and that which he has pleaded is a traverse of your declaration, against which you need not make any replication any more than in an Assise of Novel Disseisin; if, in that, a party denies the disseisin, the assise will be taken, without any replication having been made thereto.—Therefore the assise was awarded, &c.

No. 26.

Drein Presentement il comensera al drein presente- A.D. 1346.
 ment, et alleggera autres presentements devant cele
 en mountaunt, et issi ad allegge les presentements
 en descendaunt, com il freit en un *Quare impedit*;
 jugement.—*Husee*.¹ La matere de nostre demoustrance
 prove qe nous nel poms faire come vous parlez:
 qar a comencer al proveaunce Lordiner, saunz
 moustrarre coment ceo fut en nostre dreit par presente-
 ment fait avant, ne serra pas formele; par quei il
 covent de comencer plus haut qe al drein presente-
 ment.—Et la demoustraunce fut agarde bone.—*Der*.
 Unquore, jugement de brief: qar, en cas qe autre
 presenta qe luy mesme ou soun auncestre la drein
 personne, il avereit *Quare impedit*, et ne mye Drein
 Presentement.—*Grene*. Si mon gardein presente,
 javeray Drein Presentement, auxi icy.—Et puis le
 brief fut agarde bon.—*Skip*. Nous vous dioms qe
 celi qil suppose qe dust aver presente ne fut pas
 resceu ne institut, &c., a soun presentement; juge-
 ment.²—*Grene*. Sire, vous veietz bien coment cesti
 brief est pris del drein presentement quel nous
 avoms suppose estre fait par Lordiner en nostre
 dreit, a quel presentement il nad riens respondu;
 jugement si a ceo qil ad dit eyoms mester a respondre;
 et prioms lassise.—*SCHARS*. Cest un Assise de Drein
 Presentement en quel mesqe partie die riens vous
 avezrez³ mes⁴ lassise; et ceo qil ad plede est a travers
 de vostre demoustrance, countre quel il ne covient pas
 qe vous replietz nent plus qen Assise de Novele Dis-
 seisine; sil dedit la disseisine homme prendra lassise
 saunz replier a cele.—Par quei lassise fut agarde, &c.⁵

¹ I., *Husee*.

² The plea was, according to the record, "quod predictus Johannes Lauerans de Crekkelade non fuit admissus et institutus in ecclesia predicta ad presentationem praedictæ Alianoræ sicut eadem

" Alianora in demonstratione sua

" supponit. Et de hoc ponit se " super assisam."

³ I., naveretz.

⁴ I., mye.

⁵ According to the roll issue was joined upon the plea, and the assise

No. 27.

A.D. 1346. (27.) § One J.¹ sued a writ for himself and for the King against W. de R.,¹ Commissary of the Bishop of Norwich, on the ground that the Bishop made divers summonses to the Abbot of Bury St. Edmund's, who is exempt from all jurisdiction of the Ordinary in virtue of the charters of the King's progenitors, to appear before him, and thereupon our Lord the King sent his Prohibition by J.,¹ the plaintiff, to the Bishop and to W.¹ his Commissary, directing them not to intermeddle, &c., and the Bishop did nothing in obedience to that writ, and afterwards they denounced J. as being excommunicated, whereas he

¹ For the real names *see* p. 215, note 1.

No. 27.

(27.)¹ § Un J. suyst un brief pur luy et pur le A.D. 1346.
 Roy vers W. de R., Commissare Levesqe de Norwiz, Trespas:
 de ceo qe Levesqe fist divers somous al Abbe de Contempt.
 E., qest exempte de chesquin [Fitz., jurisdiction Dordiner Excom-
 par les chartres les progenitours le Roi, destre 9.] menagement,
 devant luy, ou nostre seignur le Roi maunda sa
 prohibicion par J., qest pleintif, al Evesqe et a W.
 son Commissare qe mes ne entremeissent, &c., pur
 quel brief il ne fist rienz, et puis denuncierent J.

was awarded. " Ideo capiatur
 assisa. Sed ponitur in respectum
 hic usque in Crastino Ascensionis
 Domini pro defectu recognitorum,
 quia nullus venit."

A verdict was subsequently given " quod praedictus Johannes Lauerans de Crekkelade fuit admissus et institutus in ecclesia praedicta ad presentationem praefatæ Alianoræ, sicut eadem Alianora supponit. Quesiti si tempus semestre jadum transiit, &c., dicunt quod tempus semestre nondum transiit, &c. Quassiti quantum praedicta ecclesia valet per annum dicunt quod valet per annum, secundum verum valorem ejusdem, decem libras."

Judgment was then given " quod praedicta Alianora recuperet presentationem suam ad ecclesiam praedictam, et damna sua centum solidorum, videlicet medietatem valoris ecclesie predictæ unius anni, eo quod tempus semestre nondum labitur. &c. Et habeat breve Episcopo Sarum loci illius Diocesano, &c."

¹ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 73. The record commences as follows:—" Suff. Simon filius Nigelli Theobaud, de Sudbury, et Jacobus persona

" ecclesiæ de Wrabbenase, Commissarii Episcopi Norwicensis, attachati fuerunt ad respondendum tam domino Regi quam Ricardo Freiselle de placito quare, cum dominus Rex nuper quoddam breve suum de Prohibitione, una cum alio brevi domini Regis sub privato sigillo suo praefato Ricardo fecisset liberari, eidem Episcopo vel ejus commissario deferendum. et idem Ricardus brevia illa, de mandato domini Regis. praefato Episcopo liberasset, praedicti Simon et Jacobus, simul cum Hamone Belers, Simone Priore ecclesiæ Trinitatis Norwici, et Fratre Petro de Donewico, monacho ejusdem Prioris. et Johanne Priore de Kersey, Commissariis praedicti Episcopi, ipsum Ricardum, causa liberationis brevium praedictorum. excommunicarunt, et ipsum excommunicatum fore publice denuntiarunt, in Regis contemptum, et ipsius Ricardi grave damnum."

A like action was brought against the above-named John, Prior of Kersey, in Michaelmas Term in the same year, some of the pleadings, &c., in which are, *mutatis mutandis*, the same as in this, and have been used for correction where the roll of this Easter Term is defective.

No. 27.

A.D. 1346. was the King's messenger, and this tortiously, and in contempt of the King and of his commands, and to the damage of J.—*Moubray* defended, and said that J. should not be answered because he was excommunicated. And he made *profert* of the same Bishop's letter of excommunication.—*Grene.*

No. 27.

escomenge, la ou il fut messager le Roi, a tort, et A.D. 1346.
 en despit le Roi et de ses maundementz, et as
 damages J., &c.¹ — *Moubray* defendi, et dit qe il ne
 serra pas respondu, qar il est escomenge. Et mist
 avant la lettre mesme Levesqe.² — *Grene*. Puis

¹ The declaration was, according to the record, "quod, cum dominus Rex nuper quoddam breve suum de Prohibitione, una cum alio brevi domini Regis sub privato sigillo ipsius domini Regis, in quibus brevibus continebatur quod dominus Rex prohibuit Willelmo Episcopo Norwicensi ne quid attemptaret nec faceret, seu per alias attemptari faceret, quod in præjudicium seu adnullationem libertatum seu privilegiorum nuper concessorum per progenitores ipsius domini Regis nunc, et ipsum dominum Regem nunc, et per summos Pontifices Romanæ Curie acceptatorum et confirmatorum Monasterio ubi corpus gloriosi Regis et Martyris Sancti Edmundi jacet humatum, et etiam ne quid faceret seu per alias fieri permitteret quod in præjudicium ipsius domini Regis nunc, seu lesionem coronæ et dignitatis sue cedere posset, et si quid per ipsum Episcopum, seu per alias, in præmissis fuisset attemptatum, id sine dilatione faceret revocari et adnullari, prout in predictis brevibus plenius continebatur, prefato Ricardo fecisset liberari, eidem Episcopo vel ejus Commissario deferendum, et idem Ricardus brevia illa de mandato Regis præfato Episcopo, die Martis in vigilia Sancti Laurentii anno regni domini Regis nunc decimo nono, apud Kerseye, in præsentia

" Roberti de Thorndone, et Raldulphi de Sheltone, et aliorum, liberavit, prædicti Simon et Jacobus, simul, &c., ipsum Ricardum, causa liberationis brevium prædictorum, excommunicaverunt, apud Kerseye et Wykham Broke, die dominica in Festo Sancti Edmundi Regis et Martyris et die dominica tunc proxime sequente anno regni domini Regis nunc supradicto, et ipsum excommunicatum, &c., in Regis contemptum et ipsius Ricardi grave damnum mille librarum. Et hoc prædictus Johannes[de Clone] qui sequitur, &c., paratus est verificare pro domino Rege, &c. Et Ricardus inde producit sectam, &c."

² The plea was, according to the record, "quod prædictus Ricardus Freyselle ad hoc breve seu ad aliquod aliud breve responderi non debet, quia dicunt quod idem Ricardus excommunicatus est. Et proferunt hic literas Willelmi Episcopi Norwicensis patentes in hæc verba: — Venerabilibus et discretis viris dominis Johanni de Stonore et sociis suis Justiciariis de communi Banco domini nostri Regis Angliae et Franciae illustris Willelmus permissione divina Norwicensis Episcopus salutem in omnipotenti Salvatore. Discretioni vestre tenore præsentium intimamus quod Ricardus Freyselle nostræ dioecesis, propter manifestam offensam in

No. 27.

A.D. 1846. Since our action is taken on the ground of the excommunication pronounced against us, which you have confessed, and you say nothing else, we pray that you be convicted of contempt, and we pray our damages.—*Skipwith*. It is possible that this excommunication may be for some fact other than that in respect of which your action is taken, and that for that reason you are not in a condition to be answered; and also you have supposed that we denounced you as being excommunicated, and we make *proferit* of the Bishop's letter which proves that he has excommunicated you, and so it is a different excommunication from that in respect of which your action is taken, and therefore you are not in a condition to be answered; judgment.—WILLOUGHBY. That which the Bishop certifies by his letter is to be understood to refer to the same excommunication as that denounced by his subordinates, unless the reverse be pleaded; therefore answer over.—Therefore *Skipwith* produced a letter of the Archbishop of Canterbury, which purported that he had found in the Court of Arches that the plaintiff had been excommunicated for divers matters, and therefore the Archbishop denounced him as being excom-

No. 27.

Le nostre accion est pris pur lescomengement A.D. 1346.
 Pronuncie en nous, quel vous avetz conu, et autre
 vienz ne dites, nous prioms qe vous soietz atteint
 de contempte, et noz damages.—*Skip.* Il est possible
 qe cest escomengement soit pur autre fait qe cele
 de qui vostre accion est pris, et par taunt vous nent
 responable [; et auxi vous avetz suppose qe nous
 vous denunciames escomenqe, et nous mettoms avant
 la lettre Levesqe qe prove qil vous ad escomenqe,
 et issi autre escomengement qe cele de quei vostre
 accion est pris, et par taunt vous nent responsable]¹;
 jugement.—*WILBY.* Ceo qe Levesqe certifie par sa
 lettre serra entendu de mesme la chose denuncie
 par ses suggestz,² si le revers ne soit plede; par
 quei dites outre.—Par quei il mist avant lettre del
 Ercevesqe de Caunterbirs, qe voleit qil avoit trove
 en les Arches qe le pleintif estoit escomenqe pur
 divers choses, par quei il luy denuncya escomenqe.³

" impediendo et violando ecclesi-
 " asticam libertatem contractam a
 " diu est, fuit et adhuc est
 " majoris excommunicationis sen-
 " tentia canonice innodatus, et pro
 " sic excommunicato palam et
 " publice nunciatus. In qua qui-
 " dem excommunicationis senten-
 " tia indurato animo perseverat,
 " claves Sanctæ Matris ecclesiae
 " contemnendo, quæ vobis et
 " omnibus quorum interest signifi-
 " camus per presentes sigillo
 " nostro patente signatas. Datum
 " apud Lambourne vicesimo octavo
 " die mensis Aprilis anno domini
 " millesimo tricentesimo quadra-
 " gesimo sexto et consecrationis
 " nostræ tertio."

¹ The words between brackets are omitted from I.

² L, subges.

³ Immediately after the letters

patent of the Bishop of Norwich
 the roll continues:—“ Proferunt
 “ etiam hic literas Johannis Can-
 “ tuariensis Archiepiscopi, totius
 “ Angliae Primatis, [et Apostolicæ
 “ sedis legati, in the Michaelmas
 “ case] patentes in hæc verba:—
 “ Tenore presentium nos Johannes
 “ permissione divina Cantuariensis
 “ Archiepiscopus, totius Angliae
 “ Primas, et apostolicæ sedis
 “ legatus, notum facimus universis
 “ quod, inspectis actis Curiae
 “ nostræ de Arcibus Londoniarum,
 “ invenimus in eis inter cetera
 “ contineri quod Ricardus Frei-
 “ selle, alias dictus Fresel, clericus,
 “ nostræ Cantuariensis provincie
 “ subditus, propter suas manifestas
 “ contumacias et offensas multi-
 “ plices contractas et commissas
 “ per ipsum, nuper auctoritate
 “ ordinaria variis majorum ex-

No. 27.

A.D. 1846. munication.—*Greene*. Sir, you see plainly how he previously alleged the letter of the Bishop of Norwich, whose Commissaries the defendants are supposed to be, and it was supposed by our suit that the Bishop had excommunicated us for having delivered the Prohibition, which excommunication could only be understood to be that same excommunication in respect of which our action was taken, and therefore our action was then confessed; therefore they shall not be admitted to say that which they allege. And, moreover, that which the Archbishop testifies he takes from a record of the Court of Arches, and it can only be understood as being for the same cause as that in respect of which our action is taken, unless any other cause is testified in the letter; therefore, &c.—*Skipwith*. Since we have produced the Archbishop's letter which proves you to be excommunicated, and the Archbishop is not supposed by your suit to be a party to the excommunication, judgment.—*Strouford*. He has specially supposed by his suit that he was excommunicated and for a particular cause, and the letter of which you make *profert* proves a general excommunication in his person, which general excommunication may include in his person that particular excommunication in respect of which the action is taken, and therefore, since the letter does not assign any other cause of excommunication, it must be understood to be for the same cause for which the action is taken.—Therefore *Skipwith* was

No. 27.

—*Grene.* Sire, vous veietz bien coment il alleggea A.D. 1346 avant la lettre Levesqe de Norwyz, q̄i commissares ils sount suppose, et¹ par nostre sute fut suppose² q̄e Levesqe nous avoit escomenge pur la prohibicion livere, quel escomengement ne put estre entendu mes mesme celle de quei accion fust pris, et par taunt nostre accion adonques conu; par quei a ceo q̄ils alleggent ne serront resceu. Et auxi ceo q̄ Lercevesqe tesmoigne ceo prent il de recorde des Arches, quel ne put estre entendu mes pur mesme la cause de quei nostre accion est pris, si autre cause en la lettre ne fut tesmoigne; par quei, &c.³

—*Skip.* Puis q̄e nous avons moustre la lettre Lercevesqe, q̄e nest pas suppose partie al escomengement par vostre sute, quel vous prove estre escomenge, jugement.—*Stour.* Il ad suppose par sa sute en especial qil fut escomenge et par certeyne cause, et la lettre q̄e vous mettez avant prove escomengement general en lui, quel general purra comprendre en lui cel especial de quei laccion est pris, par quei, puis q̄e la lettre ne douna pas autre cause descomengement, il serra entendu par mesme la cause pur quele laccion est pris.—Par quei il fut

“communicationum sententiis ex-
“titit et est damnabiliter innoda-
“tus, et pro sic excommunicato
“publice nunciatus. Vos igitur
“rogamus et oramus [hortamur in
“the Michaelmas case] in domino
“quatenus eundem Ricardum sic
“excommunicatum arcius evitare
“dignemini quousque ad gremium
“Sancte Matris ecclesie rediens
“absolutionis beneficium in ea
“parte juxta juris exigentiam
“meruerit obtinere. Datum apud
“Lamhetha sexto Id. Maii anno
“domini millesimo tricentesimo
“quadragesimo sexto, et nostrae
“translationis tertiodecimo.”

The plea then concludes, “unde
“petunt judicium si idem Ricardus
“Freyselle ad hoc breve responderi
“debeat, &c.”
¹ et is omitted from I.
² suppose is omitted from I.
³ The replication was, according
to the record, “ quod dominus Rex
“et ipse Ricardus prosequuntur
“istam actionem causa excom-
“municationis in ipsum Ricardum
“pronunciatæ ratione liberationis
“prædictorum brevium domini
“Regis prædicto Episcopo Norwi-
“censi, et in prædictis literis
“excommunicationis per prædictos
“Simonem et Jacobum hic in

No. 27.

A.D. 1346. put to answer over.—*Moubray*. Sir, you see plainly how he takes his action on the ground that we are supposed to have excommunicated him by reason of the delivery of a Prohibition, which matter does not fall under the cognisance of this Court, that is to say, whether he was excommunicated for that cause or for another; and we demand judgment whether in this case you will put us to answer.—*Seton*. And we demand judgment since you have not denied that you excommunicated us by reason of the delivery of the Prohibition, which excommunication cannot be punished by any other suit than one of this nature; therefore we demand judgment, and we pray that you be convicted of contempt, and we pray our

No. 27.

mys outre.¹—*Moubray*. Sire, vous veietz bien coment A.D. 1346.
 il prent saccion qe nous luy duissons aver escomenge
 par cause de la livere dun prohibicion, quel chose
 ne chiet pas en conissance de ceste Court, le quel
 il fut escomenge par cele cause ou par autre ; et
 nous demandoms jugement [si en ceo cas vous nous
 voilliez mettre a respongndre.² — *Setone*. Et nous
 demandoms jugement]³ del houre qe vous navietz
 pas dedit qe pur la cause de la livere de la pro-
 hibicion vous nous escomengeates, quel escomenge-
 ment ne put estre puny par autre sute qe ceo cy
 nest ; par quei nous demandoms jugement, et prioms
 qe vous soietz atteynt de contempt, et noz damages.⁴

“ Curia prelatis non inseritur “ istud breve versus ipso et alios,
 “ aliqua causa expressa quare idem “ supponendo predictum Ricardus
 “ Ricardus excommunicari deberet, “ dum Freyselle fore excommuni-
 “ nec per quem Ordinarium ex- “ catum causa liberationis aliquo-
 “ communicatus fuit. Et sic dicunt “ rum brevium domini Regis de
 “ quod plus intelligibile est quod “ Prohibitione predicto Episcopo
 “ ista excommunicatio nunc versus “ Norwicensi, dicunt quod Curia
 “ ipsum Ricardum allegata sit “ ista in causa istius excommuni-
 “ eadem excommunicatio de qua “ cationis seu alicujus aliam ex-
 “ dominus Rex et idem Ricardus “ communicationis cognoscere non
 “ nunc prosecuntur istam actionem “ potest, quia dicunt quod causa
 “ nem quam aliqua alia excom- “ coiugalibet excommunicationis
 “ municatio, desicut predictae literae “ mero jure trianda est sive discu-
 “ excommunicationis de alia causa “ tienda in foro ecclesiastico, et non
 “ excommunicationis nullam faci- “ in Curia laicali, unde petunt
 “ unt mentionem, unde petunt “ judicium si ad hoc breve respon-
 “ judicium si per literas predictas “ dere debeant, &c.”

¹ According to the roll “ Et quia

“ visum est Curia hic quod, non
 “ obstantibus literis predictis, pre-
 “ dictus Ricardus responderi debet,
 “ dictum est predictis Simoni et
 “ Jacobo quod respondeant, si,
 “ &c.”

² According to the record “ Simon
 “ et Jacobus dicunt quod, ubi
 “ dominus Rex et predictus Ri-
 “ cardus Freyselle prosecuntur

“ The words between brackets
 are omitted from I.

³ According to the roll, “ Et
 “ Johannes qui sequitur, &c., et
 “ Ricardus Freyselle dicunt quod
 “ dominus Rex et ipse Ricardus
 “ prosecuntur istud breve causa
 “ excommunicationis in ipsum
 “ Ricardum per predictos Com-
 “ missarios pronuntiata ratione
 “ liberationis predictorum brevium
 “ domini Regis per ipsum Ricardum
 “ predicto Episcopo Norwicensi

No. 27.

A.D. 1346. damages.—WILLOUGHBY. Will you (the defendants) say anything else?—*Moubray*. It seems to us that the cause of excommunication cannot be known to any one but to the person who pronounces it, and that consequently it is not triable in this Court; therefore, &c.—WILLOUGHBY gave judgment that the plaintiff should recover his damages, without determining whether in accordance with his declaration, or by assessment of the Court, and that the defendants should be taken.—And the defendants prayed that the damages might be assessed.—And WILLOUGHBY said that, inasmuch as the defendants were undefended, the plaintiff would recover damages in accordance with his declaration, but that he desired to consider the point.—But, because the plaintiff did not wish to sue against the others, the damages were not assessed, but otherwise they would have been assessed, and the damages would not have been in accordance with his declaration.—The plaintiff prayed the *Capias*.—And because the King sent his letter to the Justices to stay the taking of the bodies of the

No. 27.

—WILBY. Voillets autre chose dire ?¹—Moubray. Il A.D. 1346.
 nous semble qe la cause descomengement ne put
 estre sceu² forqe par celi qe la denuncia, et per
 consequens nent triable ceinz; par quei.—WILBY.
 agarda qe le pleintif recoverast ses damages, saunz
 determiner le quel come il avoit counte ou par
 taxacion de Court, et qils fuissent pris.—Et les
 defendantz prierent qe les damages furent taxes.—Et
 WILBY dit qe, par taunt qe ils sount noun defendus,
 le pleintif recoveroit damages come il ad counte,
 mes il se voleit aviser sur ceo.—Mes pur ceo qe le
 pleintif voleit suyr vers les autres, les damages ne
 furent pas taxez, et autrement ils ussent este taxes,
 et ne mye damages come il avoit counte.³—Le pleintif
 pria le *Capias*.—Et, pur ceo qe le Roi maunda sa
 lettre as Justices de surseer de prendre lour corps,⁴

“ factæ, quam excommunicationem
 “ eadem de causa in ipsum
 “ Ricardum pronunciatam prædicti
 “ Commissarii non dedicunt, quæ
 “ quidem excommunicatio est origo
 “ actionis domini Regis et dicti
 “ Ricardi, et quam actionem idem
 “ dominus Rex et dictus Ricardus
 “ in aliqua Curia nisi in Curia
 “ domini Regis per legem terræ
 “ prosequi non debent, unde petunt
 “ judicium, et quod convincantur
 “ de contemptu, &c., et de damnis
 “ pro prædicto Ricardo, &c.”

¹ According to the roll “ Quæsitum
 “ est a præfatis Simone et Jacobo
 “ si aliquid aliud dicere velint, &c.,
 “ qui dicunt præcise quod nihil
 “ aliud dicere volunt nisi id quod
 “ prius dixerunt, &c.” This precedes,
 however, and does not follow the
 last pleading on behalf of the King.

² I., conceu.

³ According to the roll “ Ideo con-
 sideratum est quod prædicti
 “ Simon et Jacobus capiantur pro

“ contemptu, &c., et prædictus
 “ Ricardus recuperet versus eos
 “ damna, &c. Et, quia Johannes
 “ qui sequitur, &c., et prædictus
 “ Ricardus protestantur quod
 “ sequi volunt versus alios in brevi
 “ nominatos, taxatio de damnis pro
 “ prædicto Ricardo versus ipsos
 “ Simonem et Jacobum respec-
 “ tuatur usque in Octobas Sanctæ
 “ Trinitatis, &c.”

⁴ According to the roll the King
 sent his writ close to the Justices of
 the Bench, dated the 20th of May,
 in the 20th year of his reign. After
 a recital of the proceedings, it con-
 tinues:—“ Et quia ob aliquas
 “ certas causas coram Concilio
 “ nostro propositas executionem
 “ dictæ considerationis quo ad ea
 “ quæ nos concernunt volumus
 “ usque ad tres septimanæ post
 “ Festum Sancti Michaelis proxime
 “ futurum differri, vobis mandamus
 “ quod, si coram vobis taliter sit
 “ processum, tunc ad capiendum

No. 27.

- A. 1346. defendants the plaintiff could not have the *Capias*, notwithstanding the fact that the defendants would have remained in prison, until they had made satisfaction as to the damages, if the damages had been assessed, &c.

" corpora prædictorum Simonis
" filii Nigelli et Jacobi, ad sectam
" nostram, seu ad satisfaciendum
" nobis de contemptu prædicto,
" seu alias contra eos proceden-
" dum, pro eo quod ad nos
" pertinet in hac parte, nulla-
" tenus demandetis, nec ipsos
" molestetis, seu gravetis usque
" ad tres septimanas supra-
" dictas. Nolumus tamen juri seu
" prosecutioni præfati Ricardi in
" hac parte in his quæ ipsum
" inde contingunt, prætextu dicti
" mandati nostri, in aliquo
" derogari."

The roll continues "virtute
" cuius brevis datus est dies
" tam prædicto Johanni qui
" sequitur, &c., quam prædicto
" Ricardo per attornatum suum
" hic usque ad præfatas tres
" septimanas Sancti Michaelis,
" &c., et taxatio de damnis
" respectuatur usque ad præfatum
" terminum."

The King then sent a writ to the
Justices to proceed.

" Et sciendum quod termino
" Michaelis anno regni domini Regis
" nunc vicesimo, rotulo cccclxxij,
" prædictus Johannes Prior de
" Kerseye convictus est tam de
" contemptu domino Regi in hac
" parte facto quan de damnis pro
" prædicto Ricardo mille librarum,
" et quia idem Ricardus super
" placito illo protestabatur quod
" noluit ulterius sequi in placito

" prædicto versus [the three
" others named in the writ],
" concessum fuit eidem Ricardo
" quod haberet executionem de
" damnis suis prædictis mille
" librarum tam versus præ-
" dictos Simonem filium Nigelli
" et Jacobum, qui super placito
" isto convicti sunt, quam
" versus prædictum Priorem de
" Kerseye qui ad tunc convictus
" fuit, &c., prout patet termino
" Michaelis prædicto, rotulo præ-
" dicto.

" Postea," the rolls continue
both in this and in Michaelmas
Term, " ante quindenam Paschæ
" anno regni domini Regis nunc
" vicesimo primo dominus Rex
" mandavit breve suum Johannide
" Stonore, capitali Justiciario hic,
" quod ipse Recordum et processum
" inde ad eandem quindenam
" mittat coram domino Rege
" ubicumque, &c. Et postmodum
" idem dominus Rex mandavit
" Justiciariis hic breve suum sub
" privato sigillo in hac verba:—
" Edward par la grace de Dieu Roi
" Dengleterre et de Fraunce; et
" seignur Dirlande, a noz Justices
" du Bank salutz. Pur ceo qe ceux
" qe furent envoiez de par nous a
" nostre conseyl nadgairs assemble
" a Loundres nous ont reporte qil
" semble a mesme le conseil qe les
" recordez et proces des plees qe
" sont pris en nostre noun a sute
" de partie, et dount partie doit

No. 27.

il nel put aver, nient countreasteaunt qils demurerount A.D. 1346.
en prisone tant qils eient fait gree des damages, si
les damages furent taxes, &c.

" prendre avaantage, les quels
" [queux in Michaelmas Term] plees
" ne touchent nostre heritage,
" proprement purront bien, a la
" playnte de partie fesaunte sug-
" gestioun en nostre Court qe error
" est en les ditz recordz et proces,
" ou en les juggementz ent renduz,
" estre fait venir devant les Justices
" de nostre Bank par noz briefs pur
" amender lerrour sanz attendre
" parlement, si vous mandons qe
" vous facetz mander les recordz et
" proces des plees qe furent devant
" vous entre nous et Richard
" Friselle dune part, et Levesqe de
" Norwiz et ses Comissaires d'autre
" part devant noz Justices assignes
" a tenir les plees devant nous
" solonc le tenour de nostre bref
" auth nostre grant seal a vous
" direct, et solonc la ley de nostre
" roialme, si meame les plees ne
" touchent nostre propre heritage
" com de sus est dit. Done[donez
" in Michaelmas Term] south nostre
" prive seal devant Caleys le quarte
" jour Daveril [de Averil in
" Michaelmas Term] lan de
" nostre regne Dengleterre
" vintisme premer et de France
" oettisme [oytisime in Michael-
" mas Term].
" Virtute quorum brevium domini
" Regis Recordum et processus
" praedicta mittuntur coram
" domino Rege ubicunque, &c.,
" per W. de Herlestone, clericum,
" &c.
" Et, postquam istud irrotula-
" mentum factum fuit, dominus

" Rex mandavit Justiciariis hic
" literas suas sub privato sigillo
" suo in haec verba:—Edward par
" la grace de Dieu Roi Dengleterre
" et de France, et seigneur Dirlande,
" as noz chers et foials Johan de
" Stonore et ses compaignons
" Justices de nostre commune Baunk
" saluz. Autrefoiz vous mandas-
" mes, et unqore vous mandoms,
" qe vous facez fournir pleinement
" et hastivement le jugement
" done pas vous en nostre commune
" [comoun in Michaelmas Term]
" Banc contre William Evesqe de
" Norwiche et ses Comissaires a la
" pursuee nostre cher et foial
" Richard Freselle de ceo qil
" escomenga le dit Richard en
" contempt de nous par cause qil
" livera certains briefs de prohibi-
" cion souz nostre seal a dit Evesqe,
" et qe vous facez ent due execu-
" cion sanz delai solouc la ley et
" custume de nostre roialme sanz
" avoir regard au prier, favour, ou
" maintenance de nullui, et ce ne
" lessez auxi come vous voilez
" eschuer nostre indignacion.
" Done souz nostre prive seal le
" xvij. jour de Averille. Et ista
" vobis mitto ut ulterius in negotio
" pradicto fieri faciatis quod de
" jure, &c."

The last paragraph is, in Easter Term, on a piece of skin sewn on to the roll, and the writing is in places illegible. The roll of Mich., 20 Edw. III. (R^o 472) has, however, been used to correct it.

No. 27.

A.D. 1846. § A writ of Contempt was sued against two Commissaries of the Bishop of Norwich by Richard Freiselle on the ground that they had denounced the plaintiff as being excommunicated because he delivered to the Bishop the Prohibition of our Lord the King.—*Moubray* denied tort and force, and made *profert* of a letter of the same Bishop of Norwich testifying that the plaintiff was excommunicated, and demanded judgment whether he ought to be answered.—*Thorpe*. This letter proves our action, for it does not prove excommunication for any other cause than we have supposed, because this letter is in general terms, and they have not denied that they are Commissaries of the same Bishop, or that they pronounced the same sentence, as we have surmised against them, and therefore we pray judgment against them as being undefended.—*Moubray*. The Bishop is not a party to that which you have surmised. Until you are in a condition to be answered we have no need to answer, and we demand judgment whether you ought to be answered. And it is not right that by feigning the name of a Commissary you should deprive us of the advantage which the law gives us. And we have seen that Thomas de Heselbeche¹ was, in a like case, not answered with respect to the Commissaries of the Bishop of Bath.—*WILLOUGHBY*. Judgment was not given in that case.—And afterwards by judgment it was said to *Moubray* that he must answer.—Therefore, on the morrow, he made *profert* of a letter of the Archbishop of Canterbury testifying that the plaintiff was excommunicated for divers contumacies, as he found in the acts of the Court of Arches of London.—*Thorpe*. This letter, like that above, does not prove that the plaintiff is excom-

¹ This name should probably be Haselshawe, as there are several previous cases in which a Thomas de Haselshawe was engaged in disputes with the Bishop of Bath and Wells.

No. 27.

§ Brief¹ de Contempte suy vers deux Commissaires A.D. 1346.
 Levesqe de Northwyc² par Richard Friselle de ceo Con-
 qils avoient denuncie le pleintif estre escomenge par
 tant qil livera la Prohibicion nostre seignour le Roi
 al Evesqe.—Moubray defendi tort et force, et mist
 avant lettre de mesme Levesqe de Northwyc
 tesmoignant qil est escomenge, et demanda jugement
 sil deveit estre respondu.—Thorpe. Ceste lettre prove
 nostre accion, qar ceo ne prove mye escomengement
 par autre cause qe nous navoms suppose, qar ceste³
 lettre est general, et ils nount pas dedit qils ne
 sount Commissaires mesme Levesqe, ne qils pronun-
 cierent mesme la sentence, com nous les avons
 surmys, par qai jugement deux⁴ com de nient
 defendutz.—Moubray. Levesqe nest pas partie a
 ceo qe vous nous avietz surmys. Avant qe vous
 soietz responsable navoms mester a respoudre, et
 demandoms jugement si vous deivetz estre respondu.
 Et nest pas resoun qe par feindre de noun
 de Commissaire vous nous tolletz lavantage qe
 ley nous doune. Et nous veimes qe Thomas de
 Heselbeche⁵ eu autiel cas ne fuit pas respondu vers
 les Commissaires Levesqe de Baaz.—WILBY. Ceo cas
 ne fuit pas ajuge.—Et puis par agarde dit est a
 Moubray qil respoigne.—Par qai lendemeyn il mist
 avant la lettre Levesqe⁶ de Caunterbirs tesmoignant
 qe le pleintif est escomenge pur divers contumacies
 auxint come il trova en les actes des Arches de
 Loundres.—Thorpe. Ceste lettre ne prove pas, comme
 avant, qe le pleintif soit escomenge par autre cause

¹ This report of the case is from
 L., and C.

² C., Northwyke.
³ C., la.

⁴ C., de eux.
⁵ L., Heselweche.

⁶ sic in both MSS.

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A.D. 1346. municated for any particular cause other than for that same cause in respect of which the action is taken, and therefore this letter is no more to the purpose in order to make us not in a condition to be answered than the first; and the Archbishop's letter does not purport that he is supposed to have pronounced any sentence himself, but testifies that he has found this matter.—WILLOUGHBY. Since this letter is in general terms, and does not prove the plaintiff to have been excommunicated for any other cause than is supposed by his suit, we understand this excommunication to be no other than that which the first letter purported; therefore answer.—*Moubray*. You see plainly how he supposes by his suit that he was excommunicated for the production of the Prohibition, whereas this Court cannot take cognisance of or try the cause of excommunication, and we do not understand that you will take cognisance.—*Setone*. And, inasmuch as you have not denied that you excommunicated us by reason of the delivery of the Prohibition, we demand judgment, and we pray our damages, and that you be convicted of the contempt.—*Skipwith*. The cause of excommunication cannot be known, nor consequently can it be tried by averment, and therefore to traverse the cause would not make an issue, nor consequently can you take cognisance.—*Thorpe*. We understand that every one, be he Bishop or any one else, who is the King's liege, ought to be obedient to the King's command, so that if the Prohibition, even if it did not lie, was delivered to him, he ought by reason thereof to stay proceedings until a writ of Consultation came to him; and, inasmuch as he does not deny that which we have surmised, we demand judgment.—WILLOUGHBY. The COURT doth give judgment that the plaintiff do recover his damages, and that the others be taken for the contempt.—And it

No. 27.

especial qe par mesme cele de quele laccion est pris, A.D. 1346.
par quei cel brief nest plus a purpos de nous faire
nouz responsable qe la primere; et si ne voet pas
la lettre qe Lercevesqe mesme duist aver pronuncie
asqune sentence, mes tesmoigne qil ad cele¹ chose
trove.—*Wilby*. Del houre qe ceste lettre est general,
et ne prove pas le pleintif estre escomenge par
autre cause qe nest suppose par sa suite, nous
entendoms cest escomengement par nulle autre qe la
primere lettre ne voleit; par qai responez.—*Moubray*.
Vous veietz bien coment il suppose par sa suite qil
estoit escomenge pur la moustraunce de la Prohibicion,
ou ceste Court ne poet conustre ne trier cause
descomengement; et nentendoms pas qe vous volletz
conustre.—*Setone*. Et, desicome vous navetz pas dedit
qe par cause de la livere de la Prohibiciooun vous
nous escomengeastes, nous demandons jugement, et
prioms nos damages, et qe vous soietz atteint del
contempte.—*Skyp*. Homme ne poet saver la cause
descomengement, *nec per consequens* la trier par
avercement, par qai de traverser la cause ne freit pas
issue, *nec per consequens* vous ne poietz conustre.—
Thorpe. Nous entendoms qe chesqun homme, Evesqe
ou autre, qest lege homme le Roi, deit estre obeis-
saunt al comandement le Roi, en tant qe si
Prohibicion, tut ne geust ele pas, luy fuit livere, il
duist par cause de cele surseer tanqe consultacion
luy venist; et desicome il ne dedit pas ceo qe nous
luy avoms surmys, nous demandons jugement.—
Wilby. La Court agarde qe le pleintif recouvre ses
damages, et les autres soient pris pur le contempte.—

¹ C., tiel.

No. 28.

A.D. 1246. was said that the damages will not be assessed because the defendants are undefended.—WILLOUGHBY. There are others named in the writ; will you sue against them?—*Thorpe*. Yes, and we pray that the damages for which you have given judgment be assessed by you in accordance with our declaration.—WILLOUGHBY. If we assess the damages now, when hereafter the jury comes on an issue joined by the others, it will assess other damages, of which damages you will then have execution—as meaning to say that would be error.—And therefore WILLOUGHBY postponed the matter for further consideration.—And they were adjourned, &c.¹

Note.

(28.) § On the return of the *Sequatur suo periculo* the tenant appeared, and said that the defendant had disseised him since the last continuance, and prayed judgment. And, notwithstanding this, WILLOUGHBY gave judgment that the defendant should recover, &c.

Note.

§ A writ was brought against a husband and his wife. The wife, having been admitted to defend on her husband's default, vouched, and the vouchee made default after default. The wife said that the defendant had entered upon the land demanded, since the last continuance, and was seised, and so had abated

¹ In addition to the case in the Common Bench in the next Michaelmas Term to which reference has already been made (p. 215, note 1), there are other matters among the records which relate to the dispute between the Bishop of Norwich and the Abbot of Bury St. Edmunds. In the *Placita coram Rege* of Michaelmas Term, 19 Edw. III. (R^o 114), it appears that the Bishop had to answer the King in respect of a contempt in citing the Abbot before

him. It was alleged that the Abbot was exempt from the Bishop's jurisdiction (*dominatione*) by reason of certain early charters, and by a "decretum" in the Court of William the Conqueror. It is mentioned as the reason for the exemption that Bury was the place in which St. Edmund was buried. The action went against the Bishop, and the King recovered thirty talents of gold. See also the same roll, R^o 151.

No. 29.

Et fut parle qe damages ne serrount pas taxes pur A.D. 1346.
 ceo qils sount noun defendutz.—WILBY. Ils y sount
 autres nomes ; voilletz suir vers eux ?—Thorpe. Oyl,
 et prioms damages estre taxes solonc ceo qe nous
 countames par vous¹ agardes.—WILBY. Si nous taxoms
 ore les damages, enapres, quant lenqueste vendra a
 myse des autres, lenqueste asserra autres² damages,
 de quex damages averetz donqes execucion, *quasi*
diceret, ceo serreit errour.—Et pur ceo il demura en
 avys unqore.—*Et adjournantur, &c.*

(28.)³ § Al *Sequatur suo periculo* retourne le tenant *Nota*.
 vient, et dit qe le demandant luy avoit disseisi puis [Fitz.,
 Voucher, la drein continuance, jugement. Et, *non obstante*, 127.]
 WILBY agarda qe le demandant recoverast, &c.

§ Brief⁴ porte vers le baron et sa femme. La *Nota*:⁵
 femme resceu a defendre, &c., voucha, et le vouche
 fit⁶ defaute apres defaute. La femme dist qe le
 demandant est entre puis, &c., en la terre demande,
 et seisi est, et issint abatist soun brief ; jugement

¹ C., voz.⁴ This report of the case is from² L., les autres.

L., and C.

³ From H., and I., until other-
wise stated.⁵ The word *Nota* is omitted from

C.

⁶ C., fist.

Nos. 29, 30.

A.D. 1346. his own writ; judgment of the writ.—*Grene*. She has vouched, and so put her answer into the mouth of another, and by the default of the vouchee she is in a position to recover to the value; therefore she has lost her answer, and we pray seisin.—*Seton*. She is a party, because she is not yet warranted, and therefore it is right that she have an answer.—*HILLARY* gave judgment that the defendant should recover against the tenants, and that they should recover against the vouchee to the value.—So observe judgment given in favour of a man who made default, &c.

Note. (29.) § On the return of the *Cape* the tenant answered by attorney, and the warrant of attorney could not be found.—*Grene* prayed that the defendant might be called.—And he could not be before judgment had been rendered, &c.

Mesne. (30.) § A writ of Mesne was brought, and the plaintiff counted that she held of the defendant by fealty and rent, and that the defendant was seised of the services by her hand.—*Moubray*. We say that we have neither fee nor seignory in the land, except a rent seek (and he showed how); ready,

Nos. 29, 30.

du brief.—*Grene*. Ele ad vouche, et mys soun A.D. 1346. respons en autre bouche, et, par sa defaute est de recoverir a la value; par qai ele ad perdu respons, et prioms seisine.—*Setone*. Ele est partie, qar unqore ele nest pas garraunti, par qai il est resoun qele eit le respons.—*Hill*. agarda qe le demandant recoverast, et eux a la value.—*Sic vide judicium pro riro qe fist*¹ defaute, &c.

(29.)² Al *Cape* retourne le tenant respondi par *Nota*. attourne, et son garrant ne put estre trove.—*Grene* pria qe le demandant fut demande.—*Et non potuit tanqe le jugement fut rendu*, &c.

(30.)³ § Brief de Mene porte, et counta qil tient *Mene*. de luy par fealte⁴ et rente, et le defendant seisi des *Mene*, [Fitz., services par sa meyn.⁵—*Moubray*. Nous dioms qe^{13.]} nous navoms fee ne seignurie en la terre, sauf une rente sek (et moustra coment); prest, &c.⁶—*Skip*. A

¹ C., fait.

² From H., and I.

³ From H., and I., but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 46. d. It there appears that the action was brought by Agnes late wife of John son of Walter de Garton against Hugh de Flaxton of Garton.

⁴ H., foyalte.

⁵ The count or declaration was, according to the record, “quod, “cum ipsa tenet de praefato “Hugone novem acres terræ, cum “pertinentiis, in Gartone, per “fidelitatem et servitium viginti “denariorum per annum, de “quibus servitiis idem Hugo “seisitus est per manus ejusdem “Agnetis ut per manus veri “tenantis sui, pro quibus servitiis “idem Hugo eam acquietare debet “versus quoscunque, &c., præ- “dictus Prior [Johannes Prior de

“Wattone] exigit a praefata Agneta “homagium et servitium viginti “denariorum per annum, et ad ea “facienda eam distinxit per averia “carucarum sua, ita quod non, “&c., praedictus Hugo, licet soppius “requisitus a praefata Agneta ut “ipsam de servitiis praedictis “acquietaret ipsam acquietare “contradixit, et adtunc contra- “dicit.”

⁶ Hugh's plea was, according to the record, “quod ipse nihil habet, “nec aliquid juris clamat, in “dominico neque in servitiis pre- “dictis, nisi quendam redditum “siccum dimidiæ marce annuatim “percipiendum de tenementis pre- “dictis, et de aliis tenementis in “eadem villa, et petit judicium si “ipsam Agnetem pro tali redditu “acquietare debet. Et hoc paratus “est verificare, unde petit judi- “cium, &c.”

Nos. 31, 32.

A.D. 1346. &c.—*Skipwith*. You shall not be admitted to that; since you do not deny that you are seised of our fealty you shall not be admitted to say that the rent is of any other kind than rent service.—And this objection was not allowed.—*Skipwith*. We hold of him; ready, &c.—And the other side said the contrary.

Avowry. (31.) § One avowed a taking for rent service. And they were at issue whether the place of taking was out of the avowant's fee or not. Afterwards the avowant made default. The jury was at the bar ready to give a verdict. The plaintiff prayed the verdict on the avowant's default.—*Herlastone* (Clerk of the Court). If this were the first day after issue had been joined to the country, the avowant would be distrained to hear the verdict; but since it is the second day you may well have the verdict on his default.—*Birton*. When a party justifies his act by a certain cause, and they are at issue on the cause, and he afterwards makes default, he will be distrained to hear his judgment, because the action is confessed, and he does not pursue the justification.—But, in the end, the Court took the verdict on his default, &c.

Trespass. (32.) § John de Stonore brought a writ of Trespass against the Abbot of Buckfastleigh, and counted, by

Nos. 31, 32.

ceo navendrez mye ; puisqe vous ne dedites qe vous A.D. 1346.
nestes seisi de nostre fealte,¹ a dire qe la rente
soit d'autre condicion qe de rente service ne serretz
resceu.—*Et non allocatur.*—*Skip.* Nous tenoms de
luy ; prest, &c.—*Et alii e contra.*²

(31.)³ § Un avowa une prise pur rente service. Et ^{Avowere.⁴} furent a issue le quel le lieu soit hors de son fee ^{[Fitz., Enquest,} ou nient. Puis lavowaunt fit defaute. Lenqueste fut ^{11.]} a la barre prest. Le plaintif pria lenqueste par sa defaute.—*Herlastone* (Clerc). Si ceo fut le primer jour apres lenqueste joyst, il serreit destreint doier la juree ; mes puis qe cest le secunde jour vous averetz bien lenqueste par sa defaute.—*Birtone.* Quant partie justifie soun fait par certeine cause, et sont a issue sur la cause, et il face defaute apres, pur ceo qe laccion est conue et il ne pursiwe pas la justificacion, il serra destreint doier son jugement.—Mes a drein la Court prist lenqueste par sa defaute, &c.

(32.)⁵ § Johan de Stonore porta brief de Trans Trans. vers Labbe de Bukfast, et counta, par *Skip.* qil fut

¹ H., foialte.

² The words *Et alii e contra* are from H. alone.

The replication of Agnes, upon which issue was joined, was, according to the record, "quod ipsa tenet tenementa praedicta de praefato Hugone per servitia praedicta, prout ipsa superius narrando supponit, pro quibus servitiis ipse tenetur ipsam Agnetem versus quoscunque ac quietare." Afterwards, before verdict, "relicta verificatione praedicta Agnes bene cognit, quod predictus Hugo nibil habet in dominico neque in servitiis in tenementis praedictis,

"prout idem Hugo superius placit ando versus eam allegavit."

The judgment was "quod eadem Agnes nihil capiat per breve suum, sed sit in misericordia pro falso clameo, &c."

³ From H., and I.

⁴ The marginal note is from H. alone.

⁵ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 84, d. It there appears that the action was brought by John de Stonore against William, Abbot of Buffestre (known in later times as Buckfastleigh), and others.

No. 32.

A.D. 1346. *Skipwith*, that he was lord of the Hundred of Ermington, within which Hundred he had a franchise to have return of all writs by his bailiffs, and to make summonses, attachments, and distresses by his said bailiffs within the said Hundred, of which franchise he and those whose estate he had had been seised from time whereof memory was not. And he said that a command came to the Sheriff to levy ten shillings of Green Wax, who handed it over to the bailiff of our liberty to levy, because it was within our liberty. And the bailiff came and would have levied it, but the defendant prevented him. And also, because the defendant fished in his several fishery, hue-and-cry was levied, and thereupon his bailiff came with the intention of attaching the parties, and the Abbot prevented him, and took away his wand, and broke it tortiously, &c.—*Mutlow*, who was assigned to the

No. 82.

seignur del hundrede de E.¹, deins quel hundrede il A.D. 1346. avoit tiele fraunchise, daver retourne de touz briefs par ses baillifs, et a faire somons, attachementz, et destresses par ses dites baillifs deins le dit hundrede, de quele fraunchise luy et ceux q̄i estat il ad furent seisiz de temps dount il ny ad memore. Et dit q̄e maundement vint a Vicounte de lever x. s. de verte cire, q̄e retorna cel al baillif de nostre fraunchise del lever, pur ceo qil fut deinz nostre fraunchise, q̄e vint et le voleit aver leve, le defendant luy destourba. Et auxi, pur ceo q̄e le defendant pescha en son several pescherie, hue et crie fut leve, par quei soun baillif vint daver attacher les parties, et Labbe luy destourba, et luy toli sa verge, et luy debrusa atort, &c.² — *Muttl.*, q̄e luy fut assigne par

¹ MSS. of Y.B., B.

² The declaration was, according to the record, “ quod, cum idem Johannes de Stonore teneat hundredum de Ermynstone, &c., ipseque habere debeat libertates regales et alias infra hundredum predictum, et ipse et omnes alii hundredum, &c., tenentes executiones, &c., brevium, &c., et placitorum infra hundredum, &c., emergentium per ballivos, &c., facere, et proficua, &c., percipere, &c., temporibus retroactis, et licet Ricardus Giffard, ballivus ipsius Johannis hundredi predicti, die Lunae proxima ante Festum Sancti Petri ad vincula anno regni domini Regis nunc Angliae decimo octavo, quendam Johanna nem de Mouthecombe infra hundredum illud pro quinqua- ginta solidis domino Regi debitum per praecptum ei per Vicecomitem missum de extractis Scaccarii domini Regis distrixisse [sic] voluit, predicti Abbas et alii

“ ipsum Ricardum distinctionem illam facere vi et armis, videlicet, gladiis, arcubus, &c., predictis die et anno impediverunt, &c. Item cum predicti Abbas et alii, in Festo Translationis Sancti Thomae Martyris anno regni ejusdem domini Regis nunc supradicto, in separali piscaria ipsius Johannis de Stonore et Johannis filii ejus apud Ermynstone vi et armis, &c., piscati fuissent, et pisces cepissent, et quidam Walterus de Srechesle, senescallus ipsius Johannis, et Robertus de Cundicote, ballivus manerii sui de Ermynstone, super ipsos Abbatem et alios hutesium levassent ut pro re contra pacem facta, super quo venit quidam Ricardus Giffard, ballivus ipsius Johannis de Stonore, ad hundredum predictum, cum alba virga sua, et ipsos Abbatem et alios attachiasse voluisse, prout decet, predicti Abbas et alii vi et armis, scilicet gladiis, &c.,

No. 32.

A.D. 1846. Abbot as counsel by the Court, said for him that the writ supposed that the plaintiff was disturbed with regard to all the articles of his franchise, and by his declaration he assigned disturbance only in the opposing of a distress for Green Wax, and in relation to an attachment made on hue and cry levied, without assigning any disturbance with regard to summoning, as was supposed in the writ, so that by his declaration he had not declared the points of his writ; judgment, &c.—*Grene*. We understand that, inasmuch as you took away our bailiff's wand, while preventing the execution of his office, a trespass was committed against us with regard to every article of our franchise; for, if my bailiff be disturbed by you in the execution of his office, I shall have an assise against you as against one who has disseised me of the whole of my bailiwick, and for the same reason in this case.—*SHARSHULLE, ad idem*. You cannot say that he has in his declaration omitted any of the articles of his franchise included in his writ; for he has observed the article of attachment by the levying of the hue-and-cry, and distress also for the Green Wax, and summons also, because Green Wax comes by Summons out of the Exchequer. Furthermore, the wand which the bailiff carries is an emblem of the peace, and of his office; therefore whosoever takes it away from him attacks all the articles of the franchise which he has to put in execution; therefore answer.—*Mutlow*. Again, judgment of the writ: for by the writ it is not supposed in what vill or hamlet the trespass was committed; judgment.—*Skipwith*. You shall not be admitted to that, because you have pleaded a variance between the writ and the count; therefore you shall not now be admitted to take exception to the writ.—*SHARSHULLE*. Even though he could be admitted to take exception to it, the writ is good

No. 32.

Court, dit pur Labbe qe le brief supposa qil fut A.D. 1346.
 Destourbe de touz les articles de sa fraunchise, et
 par sa demoustraunce il assigna la destourbaunce
 mes en deveer dun destresse pur verte cire, et pur
 un attachement fait par hue¹ et crie leve, nient
 assignant destourbaunce en somondre, quel est suppose
 en le brief, issi par sa demoustraunce il nad pas
 desclare les pointz de son brief; jugement, &c.—
Grene. Nous entendoms qe en taunt qe vous
 tollistes la verge de nostre baillif en destourbaunce
 de soun office qe trespass fut fait a nous de chescun
 article de nostre fraunchise; qar, si mon baillif en
 fesaunt soun office soit destourbe par vous, javeray
 un assise vers vous come vers celi qe mad disseisi
 de tote ma baillie, et par mesme la resoun en ceo
 cas.—*SCHARS., ad idem.* Vous ne poetz dire qil ad
 entrelesse en sa demoustraunce nul des articles de
 la fraunchise compris en son bref; qar article
 dattachement il ad servi par le hue et crie leve,
 et destresse auxi pur la verte cire, et somons auxi,
 qar la verte cire vint hors de Somons del Eschequer.
 D'autre part la verge qe baillif porte est signe de
 pees, et doffice²; par quei qd lui tout cele il
 fait offens a touz les articles de la fraunchise queux
 il ad a mettre en execucion; par quei responez.—
Muttl. Unqore jugement du brief: qar par le brief
 nest pas suppose en quel ville ne hamele le trespass
 se fist; jugement.—*Skip.* A ceo navendrez pas,
 qar vous avetz plede a la variaunce entre brief et
 counte; par quei ore a chalanger le brief ne serretz
 resceu.—*SCHARS.* Mesqil poait avenir, le brief est

" ipsum Ricardum, &c., ballivum	" librarum, et inde producit sectam,
" &c., impediverunt, et alia, &c.,	" &c."
" videlicet, virgam suam ab eo	¹ H., Hughe.
" ceperunt, unde dicit quod	² The words et doffice are omitted
" deterioratus est, et damnum	from I.
" habet ad valentiam centum	

No. 32.

A.D. 1846. enough, for he has supposed by his writ that the trespass was committed within the Hundred, and that suffices.—Therefore *Mutlow* was put to answer over. — *Mutlow*. Then we tell you that the Hundred extends into ten vills (and *Mutlow* mentioned them by name), and he has not said in which of all the vills the trespass was committed ; [and this he ought to do] because a jury cannot be caused to come from the neighbourhood of a Hundred ; judgment of the writ.—And, notwithstanding this, the writ was adjudged good.—Therefore *Mutlow* prayed that his exceptions might be entered on the roll.—And the COURT granted him this.¹—Therefore *Mutlow* said as to the coming with force and arms, and the taking away of the wand, and the breaking of it, Not Guilty. And, as to the prevention of the distress being made for the Green Wax, we tell you (said *Mutlow*) that we are lord of the manor of B., within which manor we have a franchise such that when any distress is made for any thing due to the King from any of the Abbot's tenants, the bailiff who takes the distress shall drive the distress to the Abbot's pound within the said manor, and there the beasts shall remain for three days, and if the person to whom they belong comes within that time, and pays the debt, he shall have them back again, and, if he does not come, the bailiff may, after the expiration of the three days, drive them whithersoever he pleases within the county. Of this franchise and custom the Abbot and his predecessors, tenants of the said manor, have been seised from time whereof memory runneth not. And *Mutlow* said that the Abbot permitted the bailiff to make the distress, and the bailiff on the same day would have driven the beasts off, without taking them into the

¹ Nevertheless they were not entered on the roll.

No. 32.

assetz bon, qar il ad suppose par son brief qe le A.D. 1346. trespass se fist deinz le hundrede,¹ et ceo suffit.—Par quei il fut mys outre.—*Muttl.* Donques vous dioms qe le hundrede¹ sestent en x. villes—et les noma—et il nad pas dit en quel de touz les villes la trespass se fist; qar homme ne poet faire venir pays del visne del hundred; jugement, &c.—Et, *non obstante* ceo, le brief fut agarde bon.—Par quei *Muttl.* pria qe ses chalanges fuissent entrez en roulle.—Et la COURT luy graunta.—Par quei il dit qe' quant a venir a force et armes et a toller de la verge, et al debruser, de riens coupable. Et, quant al destourbaunce de la destresse fait pur la verte cire, nous dioms qe nous sumes seignur del maner de B.,² deinz quel maner nous avoms tiel fraunchise, saver, qe quant asqun destresse serra fait pur chose due³ au Roi dasqun des tenantz Labbe, qe le baillif qe prent la destresse enhacera la destresse a faude Labbe deinz le dit maner, et la demurent iij jours, deinz quel temps si celi qui bestes y sount viegne et paie la dette qil les reavera, et, sil ne viegne pas, qe apres les iij jours le baillif les purra enhacer deinz le counte ou luy plest, de quel fraunchise et usage⁴ luy et ses predecessours, tenantz du dit maner, ount este seisiz de temps dount memore ne court. Et dit qil suffry le baillif faire la destresse, et le baillif, mesme le jour, les voleit aver enhace, saunz les mener en faude,

¹ H., loundrede, instead of le
hundrede.

² MSS. of Y.B., L.

³ H., diwe.
⁴ The words et usage are omitted
from I.

No. 92.

A.D. 1846. Abbot's pound, &c., and the Abbot would not permit that; and (said *Mutlow*) we demand judgment whether he can have an action in respect of that disturbance. And as to the prevention of the attachment following the hue-and-cry *Mutlow* said that the Abbot was lord of the manor of B., as above, within which manor he had view of frankpledge, and said that the river in which the plaintiff had supposed that he had fished, by reason of which fishing the hue-and-cry was levied, was adjoining to his manor, and the soil beneath the water, *usque ad filum aquæ*, was his soil, and he said that the Abbot fished there, as it was perfectly lawful for him to do, and the plaintiff's servants levied the hue-and-cry upon him; and punishment with regard to that article belonged to us, because what was done was within our view of frankpledge, and his bailiff would have effected the attachment, and we did not permit him, *absque hoc* that the plaintiff or any one whose estate he has ever had jurisdiction or amends for trespass committed within the manor, and also *absque hoc* that the Abbot fished anywhere except within the manor; and we demand judgment, since it belongs to the Abbot to have redress in respect of hue-and-cry levied with regard to anything done within his manor, by reason of his franchise as above, whether the plaintiff can assign tort in his person.—*Skipwith.*

No. 32.

&c., et il luy soeffri pas; et demandoms jugement A.D. 1346 si de cele destourbaunce il puisse accion aver. Et quant a la destourbaunce del attachement pur hue¹ et crie il dit qil est seignur del maner de B.² *ut supra*, deinz quel maner il ad vewe de fraunc plegge, et dit qe la rivere en quel le pleintif ad suppose qil dust aver pesche, pur cause de quel pescherie le hue et crie fut leve, est joignant son maner, et le soil de souz lewe tanqe al fille del ewe est son soille, et dit qil pescha illoeques come bien luy list,³ et les servauntz le pleintif leverent sur luy hue et crie, quel article appendi a nous a punir pur ceo qil fut fait deinz nostre vewe, et son baillif voleit aver fait lattachement, et nous le luy suffrimes pas, saunz ceo qe le pleintif ou asqun qi estat il ad unques avoient jurisdiccion ou amendes pur trespass fait deinz le maner, et saunz ceo auxi qe Labbe pescha par aillours forsqe deinz le maner; et demandoms jugement, puis qil append a luy daver redresse del hue et crie leve de chose fait deinz son maner, par cause de sa fraanchise *ut supra*, si tort en sa personne pout assigner.⁴ — *Skip.* Vous veietz

¹H., Hughe.²MSS. of Y.B., L.³H., plust.

⁴The Abbot and others pleaded, according to the record, "quo ad "hoc quod prædictus Johannes de "Stonore supponit ipsos Abbatem "et alios venisse vi et armis, et "virgam a præfato Ricardo ballivo, "etc., cepisse, dicunt quod non sunt "inde culpabiles." Upon this issue was joined.

The Abbot further pleaded "quod "ipse est dominus manerii de "Battekesburgh, infra quod "manerium ipse habet talem "libertatem et consuetudinem "quod qualicumque hora ballivus

" hundredi de Ermynstone faciat

" distictionem aliquam infra

" manerium illud pro viridi cera,

" vel pro aliis denariis domino Regi

" debitis, super aliquem tenentem

" ejusdem manerii, idem Ballivus

"ducere debet illam distictionem

"ad parcum ipsius Abbatis infra

"manerium prædictum, ad com-

"morandum ibidem in parco illo

"per tres dies et tres noctes, ita

"quod, si ille qui sic distingitur

"solver velit prædictos denarios

"pro quibus sic districtus est infra

"tempus illud, habebit averia sua

"quieta, et, si non soluerit, post

"tempus illud præteritum dictus

"Ballivus distictionem illam

No. 32.

A.D. 1346. You see plainly how they have confessed that we are lord of the Hundred, within which we have a franchise to have execution of the King's command, and so are the King's officer, while it belongs to the King's officer to levy the Green Wax by distress, and to retain the distress in whatsoever place within the county he pleases, until satisfaction be made to him; and he has avowed the disturbance on the ground of custom, according to his statement, which cannot be a title to disturb the execution of an office which belongs to the King's officer; therefore we demand judgment, and pray our damages. And, as to the other point, you see plainly how they have confessed that we are lord of the Hundred within which the fishery is, and have avowed the disturbance on the ground that they have a Court Leet, and view of frankpledge, within their manor within which they have said that the river is in which the Abbot fished, so that no one but he would have redress or jurisdiction in respect of the hue-and-cry which

" fugare potest ubicumque voluerit,
 " de quibus libertate et consuetu-
 " dine ipse Abbas et omnes præ-
 " decessores sui Abbates, tenentes
 " ejusdem manerii, seisiti fuerunt
 " a tempore quo non extat memoria.
 " Et dicit quod prædictus Ricardus
 " Ballivus Hundredi prædicti venit
 " ibidem prædicto die quo prædictus
 " Johannes queritur, &c., et cepit
 " quandam districcionem de
 " quodam Johanne de Mouthcombe
 " tenente ipsius Abbatis ejusdem
 " manerii infra manerium illud
 " pacifice, sine perturbatione, et
 " illam districcionem voluit eodem
 " die duxisse extra manerium præ-
 " dictum, et idem Abbas illud
 " ipsum facere impedivit sicut ei
 " bene licuit. Et non intendit quod
 " de tali impedimento prædictus
 " Johannes de Stonore aliquam

" injuriam in personam suam
 " assignare possit.
 " Et omnes alii dicunt quod
 " eisdem die et anno venerunt in
 " auxilium cum ipso Abbatte, absque
 " aliqua injuria contra pacem Regis
 " facienda. Et hoc parati sunt
 " verificare.
 " Et, quo ad hoc quod prædictus
 " Johannes de Stonore queritur
 " quod ipse Abbas et alii impedi-
 " verunt prædictum Ricardum
 " Ballivum quo minus ipsos
 " attachiare potuit pro hutesio super
 " ipsos levato, dicit quod ipse est
 " dominus manerii de Battekes-
 " burghe, quod est infra hundredum
 " de Ermynstone, infra quod
 " manerium ipse habet visum
 " franci plegii, et omnia alia que
 " ad visum pertinent, de omnibus
 " tenentibus et residentibus infra

No. 32.

bien coment ils ount conu qe nous sumes seignur A.D. 1346.
 del hundrede, dedeinz quel, &c., a faire execucion
 del maundement le Roi, et issi ministre le Roi, ou
 al ministre le Roi est a lever la verte cire par
 destresse, et del retener en quel lieu deinz le counte
 qe lui plest, tanqe son gree soit fait; et il ad avowe
 la destourbaunce par usage, a ceo qil dit, qe ne poet
 estre title a destourber l'office qappent al ministre le
 Roi; par quei nous demandoms jugement, et prioms
 noz damages. Et, quant al autre point, vous veietz
 bien coment ils ount conu qe nous sumes seignur
 del hundrede deinz quel la pescherie est, et ount
 avowe la destourbaunce par taunt qils ount lete et
 vewe deinz lour maner deinz quel ils ount dit la
 rive estre ou il pescha, issi qe pur le hue et crie
 qe fut leve autre naveroit redresse ne jurisdiccion

" manerium illud, et quod ipse " memoria, ut in solo suo proprio.
 " et omnes prædecessores sui " Et dicit quod ipse et alii prædictis
 " Abbates tenentes ejusdem " die et anno ibidem piscati fuerunt.
 " manerii usi sunt visu illo, et " Et super hoc venerunt prædicti
 " ibidem visum habuerunt a tem- " Walterus de Scrcchesle et
 " pore quo non extat memoria, " Robertus de Cundycote, et hutes-
 " absque hoc quod prædictus " ium infra manerium illud super
 " Johannes de Stonore aut aliquis " ipsum Abbatem et alias
 " aliis tenens hundredi de Ermyn- " levaverunt, per quod prædictus
 " tone prædicti de aliqua re " Ricardus, Ballivus prædicti
 " infra manerium suum prædic- " Johannis de Stonore de hundredo
 " tum [facta] tangente articulum " suo prædicto, venit infra manerium
 " visus franci plegii cognitionem " prædicti Abbatis prædictum, et
 " vel punitionem habuerunt, seu " eos attachiare voluit occasione
 " emendas ceperunt, quod quidem " prædicta, ipse Abbas et alii qui
 " manerium situm est super Ripam " venerunt in auxilium cum ipso
 " de Erme, et quæ ripa est solum " Abbe ipsum Ballivum impedi-
 " ejusdem subtus ripam illam " verunt, absque hoc quod ipsi alibi
 " tam large quam prædictum " infra hundredum de Ermyntone
 " manerium se extendit super ripam " prædictum piscati fuerunt, vel
 " illam, usque filum aquæ ejusdem " alibi hutesium super eos levatum
 " ripæ ex parte illa ubi prædictum " vel ipsum Ballivum aliquod
 " manerium situm est Et est par- " attachiamentum facere alibi
 " cella ejusdem manerii, in qua " impediverunt, et non intendit
 " riparia in loco illo idem Abbas " quod de tali impedimento in-
 " et prædecessores sui piscati sunt " juriam in personis suis assignare
 " a tempore quo non extat " possit, &c."

No. 32.

A.D. 1348. was levied, whereas in respect of hue-and-cry levied with regard to anything done by him within his Leet there cannot be any redress by him, but the redress must be in the Hundred Court; and you have confessed that your manor is within the Hundred and have so confessed tortious disturbance done to our bailiff; therefore we demand judgment, &c.—*Mutlow*. And we demand judgment, since we

No. 82.

mes li, ou de hue et crie leve de chose fait par A.D. 1343.
luy deinz sa lete par luy ne poet estre redresse,
mes covient estre redresse en Hundrede; et vous
avetz conu [qe vostre maner est deinz lundrede, et
issi avetz conu]¹ tercionouse destourbaunce fait a
nostre baillif; par quei nous demandoms jugement,
&c.²—*Muttl.* Et nous demandoms jugement, depuis

¹ The words between brackets are omitted from I.

² According to the record Stonore's replication was "non cog-
" noscendo ipsum Abbatem habere
" tales libertates et consuetudines in
" manerio praedicto quales ipse
" superioris allegavit, dicit quod, ex
" quo praedictus Abbas non dedit
" ipsum Johannem esse dominum
" hundredi praedicti et quin ballivus
" suus illius hundredi facere debeat
" executiones, summonitiones, dis-
" trictiones, et attachiamenta infra
" illud hundredum pro debitis
" Regis et aliis quibuscumque eidem
" ballivo per Vicecomitem comita-
" tus illius missis, in quo casu idem
" ballivus est minister Regis, quem
" de jure ipsi Abbatii seu alicui ali
" non licet impedire pro debito
" Regis distinctionem facere infra
" idem hundredum, maxime cum
" idem Abbas nullum clamat pro-
" ficuum ad usum suum proprium,
" et ex quo idem Abbas cognovit
" ipsum impediisse praedictum
" ballivum ad distingendum praे-
" dictum Johannem de Mouthe-
" combe, et distinctionem fugare,
" &c., et nihil specialiter seu alio
" modo nisi per verba vacua Curiae
" hic ostendit per quod liquet
" ipsum Abbatem tales libertates
" et consuetudines habere quales
" superioris allegavit, petit judicium,
" &c. Et, quo ad hoc quod praedic-
" tus Abbas allegat ipsum esse

" dominum praedicti manerii de
" Battekeshburghe, et habere visum
" franci plegii infra idem manerium
" de omnibus tenentibus et resi-
" dentibus in eodem, et quod praे-
" dictus Johannes de Stonore nec
" aliquis alias tenens ejusdem
" hundredi de aliqua re facta infra
" illud manerium tangente articu-
" lum visus franci plegii cogni-
" tionem vel punitionem hucusque
" habuerunt seu emendas ceperunt,
" quod quidem manerium situm
" est super ripam praedictam, et tam
" large quam praedictum manerium
" se extendit super praedictam
" ripam, et solum subtus eandem
" ripam usque filum aquæ, &c., est
" solum ipsius Abbatis et parcella
" praedicti manerii, in quo idem
" Abbas et praedecessores sui a
" tempore quo non extat memoria
" piscati sunt, et iidem Abbas et
" alii predictis die et anno ibidem
" piscati fuerunt, per quod praedicti
" Walterus et Robertus hutesium
" super ipsos Abbatem et alios lev-
" averunt, per quod ballivus hun-
" dredi, &c., ipsos Abbatem et alios
" ex officio, &c., attachiasse voluit,
" ipsi Abbas et alii ipsum bal-
" livum impediverunt, et non in-
" tendit quod de tali impedimento
" injuriam, &c., in personis, &c.,
" assignare possit, &c.. Dicit quod
" ipse non cognoscit quod idem
" Abbas habeat visum franciplegii
" in manerio praedicto, et, ex quo

No. 32.

A.D. 1346. have affirmed such a custom in us having regard to the one point, and with regard to the view of frank-pledge title of prescription, by reason of which we understand that we can make disturbance in respect of the matter abovesaid, which title of prescription they have not denied; therefore, &c.—*Thorpe*. No one can ever claim title of prescription against the King unless some profit is shown to accrue to him through that custom. Now he has not assigned any profit which he could have by that custom; therefore he cannot claim, and particularly since he does not claim to levy the King's debt on this occasion.—*Mutlow*. We show that the custom is to our profit, for we have alleged the custom in respect only of the beasts of our tenants taken within the manor, and so the favour which is shown to them in respect of distress levied upon them is our profit.—*Grene*. It is necessary that the King should be served in respect of his debts, and he will not be limited in the levying of his debts by a custom alleged in opposition to his bailiff, when the result may be supposed to be by reason of the bailiff's negligence or default; therefore prescription in such a matter cannot be alleged as a title against the King to delay him in the levying of his debts, and consequently not against us who are the King's officer deputed to perform this office.—Therefore they were adjourned upon this point, and upon the other point also.

No. 32.

qe nous avoms afferme en nous tel usage eant A.D. 1346.
 regarde al un point, et al vewe, &c., title de prescripcion, par quel nous entendoms qe nous puissions faire destourbance de chose susdite, quel title de prescripcion ils nount pas dedit; par quei, &c.—*Thorpe*. Homme ne clamera jammes title de prescripcion vers le Roi si profit de cel usage ne luy accrestereit. Ore ad il assigne nul profit qil averoit par cel usage; par quei il ne pout clamer, et nomement puis qil ne cleyme pas a lever la dette le Roi pur cel temps.—*Muttl*. Nous moustroms qe lusage est en profit de nous, qar nous avoms allegge le usage mes des bestes noz tenantz pris deinz le maner, et issi le desporth qest fait a eux de lour destresse si est profit a nous.—*Greue*. Il covient qe le Roi soit servi de ses dettes, [et il ne serra pas limite a lever ses dettes]¹ par usage vers soun baillif, quel poet estre suppose par negligence et defaute de baillif; par quei prescripcion de cele ne poet estre dit title countre le Roi de soi proloigner de ses dettes a lever, et, *per consequens*, nient vers nous qe sumes ministre le Roi en cel office deputez.—Par quei sur cel point [et auxi sur lautre point,¹] ils sont ajournes, &c.²

“ prædictus Abbas non dedicit quin
 “ hutesium super ipsum et alios,
 “ &c., extitit levatum eo quod in
 “ riparia prædicta piscati fuerunt,
 “ in quo casu idem Abbas judex
 “ suus proprius in sua querela pro-
 “ pria de jure esse non debet, et, ex
 “ quo idem Abbas expresse cognovit
 “ ipsum impeditivse prædictum
 “ ballivum hundredi, &c., ipsos
 “ Abbatem et alios attachiare pro
 “ hutesio, &c., cui nemini de lege
 “ licuit impedire, maxime cum
 “ idem ballivus Minister Regis sit
 “ in hoc casu, et, ex quo idem Abbas
 “ et alii actionem vefsus eum

“ habuisse potuerunt ad commun-
 “ nem legem et habuisse debuerunt,
 “ petit judicum, et damna sibi
 “ adjudicari.”

¹ The words between brackets are omitted from I.

² After adjournments, judgment was, according to the roll, given as follows:—“ Quia prædicti Abbas et
 “ alii superioris expresse cognoverunt
 “ quod prædictus Johannes de
 “ Stonore est dominus hundredi
 “ prædicti, et quod prædictus
 “ Ricardus Giffard tunc fuit balli-
 “ vusillius hundredi, non dedicendo
 “ quin idem ballivus districcionem

No. 32.

A.D. 1246. § John de Stonore brought a writ of Trespass against the Abbot of Buckfastleigh, supposing himself to be lord of the Hundred of Ermington, in respect of which Hundred he had royal and other franchises, to make summonses, attachments, and distresses, and the execution and return of writs.—And he counted that the defendant had disturbed him in the levying of the Green Wax, and in making attachments in respect of a hue-and-cry levied.—*Mutlow* took exception to the effect that he had not by his declaration carried out his writ, that is to say, by showing that tort had been done to him in all the points supposed by the writ.—*Grene*. We have said and shown that the Abbot did other injuries to the plaintiff, that is to say, that he took away from our bailiff the bailiff's wand, and broke it; and whosoever takes away from my bailiff his wand, which is an emblem of his office of bailiff and of the keeping of the peace, attacks the whole franchise, and is a real cause of disseisin.—And for that reason *Mutlow* was put to answer over.—*Mutlow*. We tell you that the Hundred extends into several vills (and he mentioned them by name), and this writ is not brought in any vill; judgment of the writ.—*Grene*. A writ of this kind will not be brought in any vill, because possibly there is not any vill and possibly there are twenty vills in the Hundred, and it is not right to mention

No. 82.

§ Johan¹ de Stonore porta brief de Trans vers A.D. 1346.
Labbe de B., supposant qil est seignur del Hundrede Trans.
de E.,² de quel Hundrede il ad fraunchises reals et
autres, somons, attachements, et destresses a faire, et
execucion et retourne des briefs.—Et counta qe le
defendant luy avoit destourbe en le lever de la vert³
cire,⁴ et faire attachements dun hue et crie leve.—
Mutl. challengea qe par sa moustraunce il navoit pas
servy a soun brief, saver, moustrant qe tort luy fuit
fait en touz les pointz supposes par le brief.—
Grene. Nous avoms dit et moustre⁵ qautres ledes
luy fist, saver, qil tollist⁶ a nostre baillif sa verge,
et la debrusa; et qd qe toud⁷ a moun baillif sa
verge, qest signe de sa baillie et del garde de la
pees il offende tut la fraunchise, et est propre cause
de disseisine.—Et sur cele cause est mys outre.—
Mutl. Nous vous dioms qe le Hundrede sestent en
plusours villes (et les noma) et ceo brief nest pas en
nulle ville; jugement du brief.—**G**rene. Tiel brief
ne serra pas porte en ville, qar par cas il ny ad
pas ville, et par cas ils ount xx villes en le Hundred,

“cepisse voluit pro debito Regis
“per præceptum ei per Vicecomitem
“missum, videlicet, pro prædictis
“quinquaginta solidis, et id quod
“iidem Abbas et alii allegant pro
“usu et consuetudine per præscrip-
“tionem temporis eius valere non
“potest nec debet in hoc casu,
“maxime cum iidem Abbas et alii
“virtute illius consuetudinis nullam
“ad se clament proficuum, sed
“citius onus et damnum quam pro-
“ficiunt, Consideratum est quod
“idem Johannes de Stonore, quo
“ad hoc, recuperet versus ipsos
“Abbatem et alios damna sua, que
“taxantur per Justiciarios hic ad
“viginti libras Et iidem Abbas et
“alii capiantur. Et, quo ad alium
“articulum, videlicet, quo ad hoc

“quod idem Johannes de Stonore
“supponit ipsos Abbatem et alios
“impedivisse prædictum Ricar-
“dum ballivum hundredi, &c.,
“attachiare eos pro hutesio super
“ipsos levato, recitatis rationibus
“prædictis et intellectis quo ad hoc
“obrationes superius allegatas, con-
“sideratum est quod iidem Abbas et
“alii eant inde sine die, et prædic-
“tus Johannes de Stonore quo ad
“hoc nihil capiat per breve suum.”

¹ This report of the case is from L., and C.

² MSS. of Y.B., A.

³ C., veer.

⁴ L., Sire.

⁵ C., counte.

⁶ L., tollast.

⁷ L., toudra.

No. 82.

A.D. 1846. all the vills by name, and for that reason the place in which the trespass and the disturbance were committed will be definitely assigned in the count, and that we have done.—Therefore *Mutlow* was put to answer over.—And there was also touched the point that, after exception has been taken to a variance between the writ and the count, the defendant has lost the advantage of an exception to the writ.—*Mutlow*. The writ purports that the plaintiff has a fishery in the river Erme, which river is parcel of his manor of Ermington, and that we took fish there, and he does not determine in what vill it was, whereas the river Erme extends into several vills (and *Mutlow* mentioned them by their particular names); judgment of the writ.—*SHARSHULLE*. The word in the writ is *ibidem*, which must be understood to mean in the place which is parcel of his manor, and therefore the writ is good enough, and therefore answer.—*Mutlow*. We tell you that the Abbot is lord of the manor of B., which is within the Hundred, &c., within which manor he has a Court Leet, and everything belonging to a Court Leet, so that no one ought to intermeddle but himself and his officers. And we tell you that the river Erme runs beneath his manor, and is parcel of his manor *usque ad filum aquæ*, and he has a fishery there, and he and his predecessors have had it from all time, and the plaintiff's bailiffs, on the day in respect of which the plaintiff has counted, would have disturbed him and have attached him for fishing, whereupon hue-and-cry was levied, and he prevented them; judgment whether any tort, &c. And as to coming with force and arms and breaking the wand he said Not Guilty. And as to preventing the making of a summons he said, as above, that the Abbot is lord of the manor of B., within which manor he and his predecessors from all time have

No. 82.

et nest pas resoun de nomer touz les villes, et pur A.D. 1346.
 ceo en count serra assigne en certain ou le trans
 se fist et la destourbaunce, et ceo avoms nous fait.
 —Par qai il fuit mys outre.—Et auxint fuit touche
 qapres variaunce chalenge entre brief et count il
 perdist lavantage del excepcion.—*Mutl.* Le brief
 voet¹ qe le pleintif ad pescherie en la river de E.,
 quele river est parcelle de soun maner de E.² et
 qe nous preissons pessoun illoeques, et ne determine
 pas en quele ville, la ou la rivere de E. sestend en
 plusours villes, et les noma en certain ; jugement
 du brief.—*SCHAR.* Le brief voet *ibidem*, qe covient
 estre entendu en le lieu quest parcelle de son maner,
 par qai il est assetz boun et pur ceo³ responez.—
Mutl. Nous vous dioms qe Labbe est seignur del
 maner de B., quel est deinz le Hundrede, &c., deinz
 quel maner il ad lete et qantqe a lete appent, issi
 qe nulle se deit medler si noun luy et ses ministres.
 Et vous dioms qe la river de E. court south⁴ soun
 maner, et est parcelle de soun maner tanqal fil del
 ewe, et illoeques ad pescherie, et luy et ses prede-
 cessours ount eu de tut temps, et les baillifs le
 pleintif, le jour qil ad counte, luy volleint aver
 destourbe et aver attache pur la pescherie, sur qai
 hue et crie fuit leve, et il les destourba ; jugement
 si tort, &c. Et dist, quant a vener a force et armes
 et debruser la verge, de rien coupable. Et quant al
 destourber de somons faire, &c., il dit, *ut supra*, qil
 est seignur del maner de B.,⁵ deinz quel maner⁶
 luy et ses predecessours de tut temps ount eu⁷ tele

¹ voet is omitted from C.² MSS. of Y.B., N.³ L., par qai, instead of et pur
ceo.⁴ C., sur, instead of court south.⁵ MSS. of Y.B., D.⁶ maner is omitted from C.⁷ eu is omitted from C.

No. 82.

A.D. 1846. a custom and a franchise such that if any distress was made by the bailiff of the King or of the Hundred for anything whatsoever, the distress should be taken to the Abbot's pound within the same manor, to remain there for three days, so that the person who had been so distrained might be able to make satisfaction within that time, &c., and that if he did not so make satisfaction the bailiff might take the distress wherever he pleased. And *Mutlow* said that this distress in respect of which, &c., was made on one of the tenants within the Abbot's manor, and that the plaintiff's bailiff would have driven it immediately outside of the manor, and that the Abbot would not permit him, *absque hoc* that the Abbot committed any other disturbance; judgment. — *Skipurith*. As to the first point, he does not deny that we are lord of the Hundred, in which, even though he had view of frankpledge within his own manor, he would not have jurisdiction in respect of a matter touching himself or his officers, but would be cried throughout our Hundred, and therefore we demand judgment. And as to the other point, inasmuch as he does not deny that he made the disturbance, and that which he says about custom, which is in fact contrary to the King's statute,¹ cannot be drawn to establish custom or franchise without a specialty of which he shows nothing, judgment, &c.²

¹ 13 Edw. I. (Wynton.), c 6.

² For a continuation of the report *see* Y.B., Mich., 20 Edw. III., No. 101, and for the conclusion Y.B., Hil., 21 Edw. III. (old editions), No. 10 (fo. 3, b.). For the judg-

ment as entered on the roll, *see* above, p. 251, note 2. For another action brought by John de Stonore and his son against the Abbot of Buckfastleigh, *see* below No. 38 in this term.

No. 32.

custume et fraunchise et si nulle destresse fuit A.D. 1346.
 fait par baillif le Roi ou del Hundrede pur
 qecunqe chose, qe la destresse serreit mene al
 parke Labbe deinz mesme¹ le maner, illoeques a
 demurer par iiij² jours, issint qe celuy qe issint
 fuit destreint deinz cel temps purra faire gree,
 &c., et sil ne fet qe le baillif³ meneroit⁴ la
 destresse quel part luy plerroit. Et dit qe cel
 destresse dount, &c., fuit fait sur un des tenantz
 deinz soun maner, et le baillif le pleintif le
 volleit aver enchace tantost hors del maner, et il
 nel soeffri pas, sanz ceo qautre destourbaunce fit;
 jugement.—*Skip.* Quant al primer point, il ne
 dedit pas qe nous sumes seignur del Hundrede,
 ou, tut avoit il vewe deinz soun maner de chose
 touchaunt luy mesme ou ses ministres, il navera
 pas jurisdiccion, mes serreit crie par mye en nostre
 Hundrede, par qai jugement. Et, quant a lautre
 point, desicomme il dedit pas qil ad fait la destourbaunce,
 et ceo qil parle dusage, qest proprement
 encountre lestatut le Roi, ne poet sanz especialte
 estre tret en usage ne fraunchise, et de ceo rienz
 ne moustre, jugement, &c.

¹ mesme is omitted from C.² L., iiiij.³ C., les baillifs, instead of le

baillif.

⁴ C., menerent.

Nos. 33, 34.

A.D. 1346. (33.) § Five persons sued a *Scire facias* in respect
Scire facias. of damages in the King's Bench, and the record
 purported that six persons had recovered the
 damages.—*Skipwith* demanded judgment of the writ,
 on the ground that the existence of the sixth person
 at one time was proved by the record, and his death
 was not supposed by the writ; judgment.—*Grene*.
 We say that he has died.—And, because the writ did
 not suppose his death, the writ was abated.

Statute Merchant. (34.) § John de Burnham, parson of the church
 of C., and one J. made a statute merchant to one
 R. Leche, and this same John, with other persons,
 severally made divers other statutes to this same R.,
 upon which R. had execution. John and all the other
 obligors came into Chancery and produced an
 indenture by which R. granted to them that if John
 paid to him, and to one T., one hundred pounds,
 that is to say, twenty pounds each year, the above-
 mentioned statutes should lose their force. And John
 said that he had fulfilled the covenant, and he had
 a writ to the Justices in favour of all the obligors
quod vocatis partibus, &c. And upon that writ he had
 a *Scire facias* to warn R. to show cause wherefore he
 had sued execution contrary to his own deed, and that
 was for them all. And the writ was not returned.—
Grene. You have here R., and he prays execution,
 because he has been warned and has appeared; and
 whether the writ be returned or not, that ought not
 to prevent us having our execution since it is your
 suit, and particularly when we have a day in Court
 by the roll.—*Moubray*. We tell you, for John de
 Burnham, that we delivered the writ to the Sheriff.
 And see here the Sheriff's bill which testifies the
 fact. And we are ready to sue against the Sheriff.
 And we do not understand that you ought to have
 execution before the writ is returned.—And, notwith-
 standing this, because R. had a day by the roll, John

Nos. 33, 34.

(33.)¹ § V. suirent un *Scire facias* des damages en A.D. 1346. Baunk le Roi, et le recorde voleit qe vj. lavoint *Scire facias*. recoveri.—*Skip.* demanda jugement de brief, de ceo qe [Fitz., la vie le vj^{mo}. par recorde est prove a un temps, et *Variauns,* sa mort nest pas suppose par le brief; jugement.—*Grene.*² Nous dioms qil est mort.—Et pur ceo qe le brief nel supposa, le brief est abatu.

(34.)³ § Johan de Burnham, personne del eglise de C., et un J. fesoient un estatut marchaunt a un R. Leche, et mesme celi Johan ove autres personnes severals fesoient autres divers estatutz a mesme celi R., sur queux R. avoit execucion. Vint J. et trestouz les autres en Chauncellerie et moustrerent une endenture par quele R. a eux graunta qe si J. paie a luy, et a un T., c.li., saver, chesqun an xx. li. qe adonques les estatutz susditz perdent lour force. Et dit qil avoit tenu covenant, et avoit brief a les Justices pur eux touz *quod vocatis partibus*, &c. Et sur ceo avoit brief a garnir R. pur quei il avoit suy execucion contre son fait, et pur eux toux. Et le brief ne fut pas retourne.—*Grene.* Vous avetz cy R., et prie execucion, puis qil est garny et est venu; et le quel qe le brief soit retourne ou nent, ceo ne nous deit destourber de nostre execucion puis qe cest vostre sute, et nomement quant nous avons jour en Court⁴ par roulle.—*Moubray.* Nous vous dioms, pur J. de Burnham, qe nous livrâmes le brief al Vicounte. Et veietz qe la bille le Vicounte qe le tesmoigne. Et sumes prest a suir vers le Vicounte. Et nentendoms pas qe avant qe le brief soit retourne vous devetTZ execucion aver.—Et, *non obstante cele*, pur ceo qil avoit jour par roulle, il fust

¹ From H., and I.

² H., *Skip.*

³ From H., and I., until other-
wise stated.

⁴ The words en Court are omitted
from I.

No. 34.

A.D. 1346. was put to pursue [the *Audita Querela*] if he would.—And the others did not appear.—*Skipwith*. Since the suit is taken in common with the others who do not appear, we do not understand that John de Burnham will be admitted to maintain any suit alone.—And, notwithstanding this, John was admitted alone. And he made *provert* of the indenture, which bore the date of the nineteenth year of the present King. And he produced to the Court the whole of the hundred pounds in gold, and said that he had previously been ready to pay the amount by the instalments mentioned in the indenture.—*Grene*. You see plainly how the indenture supposes that John and one person levied one statute, and John and another person levied another statute, and so it is proved that they are bound, and consequently they must be discharged severally and by several suit, and this suit is taken for them in common; judgment whether we have any need to answer to this suit, which is not warranted by the liens; and we pray execution.—*SHARSHULLE*. This suit is taken in virtue of the indenture which discharges them in common; therefore it is sufficient to maintain the suit.—Therefore *Grene* was put to answer over.—*Grene*. Still you see plainly how they are suitors and the others are not; and he does not show that he has suffered damage by livery of his land or by imprisonment of his body, by reason of which the suit would be given, and particularly since the others for whom the suit is taken do not prosecute it; and we demand judgment whether to this suit, &c.—Afterwards *Grene* said:—Whereas John has said that he tendered the money to us *in pais*, to wit, at N., ready, &c., that he did not.—And the other side said the contrary.—*Moubray*. Now we pray a writ to the Sheriff of S. to cause to come the bodies of our companions, who have been taken, to maintain the

No. 34.

Days a suir sil voleit.—Et les autres ne viendrent A.D. 1346.
Pas.—*Skip.* Puis qe la sute est pris en comune od
Les autres qe ne veignent pas, nentendoms pas qil
soul serra resceu dasqune sute meyntener.—Et, *non*
obstante celi, J. fut resceu soul. Et myst avant
Lendenture qe porta date del an xix. le Roi qore
est. Et myst avant a la Court totes les *c.li.* en
ore, et dit qil avoit este prest avant de paier solonc
les porcions compris en lendenture.—*Grene.* Vous
veietz bien coment lendenture suppose J. et une
personne lever un estatut, et J. et une autre personne
lever un autre estatut, issi est ceo prove qils sount
[liez, et, *per consequens*]¹ severalment par seute
several ils serrount deslietz, et ceste seute est pris
pur eux en comune; jugement si a ceste seute qe
nest pas garrantie de les liens eioms mester a
respoudre; et prioms execucion.—*SCHARS.* Ceste
sute est pris par force del endenture qe les descharge
en comune; par quei a cel suffit de meyntenir la
sute.—Par quei il fut mys outre.—*Grene.* Unqore
vous veietz bien coment ils sount seuters, et les
autres nent; et ne moustre pas qil est endamage
par livre de terre ne par enprisonement de son
corps, par cause de quel la sute serra done, et
nomement puis qe les autres pur queux la sute est
pris ne siwent pas; et demandons jugement si a
ceste sute, &c.—Puis *Grene* dit qe la ou il ad dit
qil nous tendi les deners en pays, saver a N., prest,
&c., qe noun.—*Et alii e contra.*—*Moubray.* Ore
prioms brief al Vicounte de S. de faire veneer les
corps noz compaignons, qe sont pris, de meintener

¹ The words between brackets are omitted from I.

No. 35.

A.D. 1346. suit with us.—And because he had been admitted to sue alone, and the others cannot now be made parties to this suit, he therefore could not have the writ, &c.

Audita Querela. § John de Brimham, clerk, and two others sued an *Audita Querela* against one who had sued execution against them on statute merchant in respect of three statutes severally made by each of the three. And the two others were in prison. And John made *provert* of an indenture purporting that, if they or any one of them should pay the money at certain terms, the statutes should lose their force.—*Grene*. This indenture is the original of this suit, and the other two who are in prison are not parties to it, but only John; judgment whether you will put us to answer by reason of this writ purchased by the three in common, and that in respect of several statutes.—*STONORE*. The indenture purports that, if they or any one of them pays, all the statutes lose their force, and therefore answer.—*Grene*. They did not tender the money to us; ready, &c.—And the other side said the contrary.

Quare impedit. (35.) § A prebendary¹ brought a *Quare impedit* against the Dean of Warwick [and John Martyn, chaplain]. And the writ was in common form. And he counted that the patronage belonged to him, [and that John tortiously prevented him from presenting], and tortiously because it belonged to him and to the Dean, who was defendant, to present, inasmuch as they ought to present in common.—*Seton*. Judgment

¹ For the name, see p. 263, note 4.

No. 35.

la sute od nous.—Et pur ceo qil fut soul resceu a A.D. 1346.
suir, et les autres ore a ceste sute ne pount estre
faitz parties par quei il ne le poet aver, &c.

§ John¹ de Brimham, clerc, et deux autres suyrent *Audita Querela*.
Audita Querela vers un qe avoit suy execucion vers eux par estatut marchaunt de iij estatuts severalment fait par chesqun des iij. Et les deux sount enprisones. Et Johan mist avant endenture qe si eux ou asqun paist a certainz termes, &c.—*Grene*. Ceste endenture est original de ceste suite, et a ceste endenture les autres deux qe sount enprisones ne sount pas partie mes soulement Johan; jugement si par ceste brief purchase par les iij en comune, et ceo de several estatuts, vous nous² voilletz mettre a respoundre.—*STON*. Lendenture voet si eux ou asqun deux³ paie qe touz les estatuts perdent lour force, et pur ceo responez.—*Grene*. Ils ne tendirent pas les deners a nous; prest, &c.—*Et alii e contra*.

(35.)⁴ § Un provandre porta *Quare impedit* vers le *Quare impedit*.
Dean de W.⁵ Et le brief fut comune. Et counta [Fitz.,
qe a savoweson appent, et pur ceo atort qil appent *Quare impedit*,
a luy et al Dean qest defendant a presenter, par 63.]
taunt qils presentereint en comune.⁶—*Setone*. Juge-

¹ This report of the case is from L., and C.

² nous is omitted from C.

³ C., de eux.

⁴ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 144. It there appears that the action was brought by William de Derby, Prebendary of the prebend "beatae Mariæ de Warrewyke in ecclesia beatæ Mariæ de Warrewyke" against "Robertus de Derby, Decanus ecclesiæ beatae Mariæ de Warrewyke, et Johannes Martyn,

" capellanus, de placito quod
" permittant ipsum præsentare
" idoneam personam ad ecclesiam
" beati Petri de Warrewyke."

⁵ MSS. of Y.B., L.

⁶ The declaration was, according to the record, "quod quidam Ricardus Tankard, quondam Decanus ecclesiæ beatæ Mariæ de Warrewyke, predecessor prædicti Decani, et quidam Willelmus de Uptone, quondam Præbendarius præbendæ beatæ Mariæ de Warrewyke, predecessor ipsius Willelmi, fuerunt seisiiti de advocatione ecclesiæ prædictæ,

No. 35.

A.D. 1846. of the count, because at the commencement he supposes himself to be sole patron, and in the conclusion of his count he shows that he is patron in common with us, and so the declaration is repugnant in itself; judgment.—*Pole*. We cannot have any other count on our matter, and we demand judgment whether, &c.—*Grene, ad idem*. If one joint tenant disseises another, the disseisee will have an Assise alone against his companion for the tort which the latter has done, without naming the disseisor as plaintiff with him; and so also in this case, since we have supposed the hindrance to be in him, the suit is maintainable for us alone without naming him as plaintiff with us.—*WILLOUGHBY*. The law was formerly that one joint feoffee should not have an Assise against another without naming the other as plaintiff with him, but this other law has been recently practised; but between parceners, where the tenant of their common ancestor has forfeited during the ancestor's time, and one of the parceners has entered upon the whole, the other must in his writ of Escheat name the tenant with himself [as defendant]; and so also in a Formedon; and so it seems also in this case.—*Thorpe*. That is true; in an ancestral action one cannot bring the writ without the other; but, where the action is taken on their own possession, the writ may be maintained by one against the other; and so also in our case, since the count is that they presented¹ in common, the suit is maintainable for one.—*SHARSHULLE*. Assise of

¹ This was not so, according to | the Dean and of the prebendary
the record. The predecessors of | presented.

No. 95.

ment de counte, qar al commencement il suppose A.D. 1346. estre soul avowe, et en le perclos de son counte il moustre qil est avowe eu comune ove nous, issi la demoustrance repugnant en luy mesme; jugement.¹—

Pole. Autre counte sur nostre matere ne poms aver, et demandoms si, &c.—*Grene, ad idem.* Si lun joyntenant disseise lautre, le disseisi avera soul assise vers son compaignon pur le tort qil ad fait, saunz nomer le disseisor pleintif ovesqe luy; et auxi en ceo cas, puis qe nous avons suppose la destourbaunce en luy, la seute est meyntenable pur nous soul saunz luy nomer pleintif od nous.—

Wilby. Launciene lei fut qe lun joynt² feffe navera pas assise vers lautre sanz nomer lautre pleintif od luy, mes cel leye est use de novel; mes entre parceners, la ou le tenant lour comune auncestre forfit en son temps, et lun entre en tut, lautre en un brief Deschete covient nomer le tenant od luy; et auxi en Fourme de doun; et auxi semble en ceo cas.—*Thorpe.* Il est verite; en accion auncestral lun ne portera brief saunz lautre; mes, la ou laccion est pris de lour possession demene, le brief est meyntenu pur lun vers lautre; et auxi en nostre cas, puis qe le counte est qils presenterent en comune, la seute est meyntenable

"et ad eandem ecclesiam præ-
"sentarunt quendam Ricardum
"de Patwode, clericum suum, qui
"ad præsentationem suam fuit
"admissus et institutus,
"tempore domini Edwardi Regis
"patrii domini Regin nunc, per
"cujus mortem prædicta ecclesia
"modo vacat. Et sic dicit quod ad
"ipsum Willelmum simul cum
"prædicto Decano pertinet ad
"prædictam ecclesiam ad præsens
"præsentare, prædictus Johannes
"ipsum inde injuste impedit."

¹ The plea was, according to the record, "quod prædictus Willelmus,
"tam per breve suum prædictum,
"quam per demonstrationem suam,
"supponit advocationem ecclesie
"prædictæ ad ipsum Willelmum
"solum pertinere, et in conclusione
"narrationis suæ supponit quod
"præsentatio ad eandem ecclesiam
"ad ipsum Willelmum et præ-
"dictum Decanum pertinet in
"communi, unde petunt judicium
"de variatione, &c."
² H., yoint.

No. 35.

A.D. 1346. Darrein Presentment lies more properly in this case for you alone than this writ of *Quare impedit* does; and because you have counted that he is patron in common with you, and this writ is taken for you alone and is not maintainable in this case, therefore it is adjudged that you do take nothing by your writ.—And the defendant did not have a writ to the Bishop, because he had not made a title for himself to facilitate it.—*Moubray*. The plaintiff has by his count given us a title to present; therefore by reason of any default in not making a title we ought not to be ousted so as not to have a writ to the Bishop.—*WILLOUGHBY*. That acknowledgment of title which the plaintiff has made to you is made to you and him in common, and therefore, if you ought on that acknowledgment to have a writ to the Bishop, you ought to have it together with him, which is impossible; therefore it must be imputed to you as your own fault that you have not made a title.—Therefore he could not have a writ to the Bishop.

*Quare
impedit*

§ William Derby, prebendary of the prebend of Our Lady in the church of Our Lady of Warwick, brought a *Quare impedit* against the Dean of Warwick and another, counting that the latter tortiously prevented him from presenting, &c., and tortiously for that it belonged to him to present together with the same Dean. And he counted that he and the Dean were seised of the patronage and presented the parson by whose death the church is now void, and in the conclusion he also mentioned that it belonged to him and to the Dean to present.—*Seton*. First

No. 35.

pur lun.—**SCHARS.** Assise de drein presentement gist A.D. 1346.
 plus proprement en ceo cas pur vous soul qe ceo
 brief ne fait; et pur ceo qe vous avetz counte qil
 est avowe od vous en comune, et pur vous soul
 cest brief est pris qe nest pas meyntenable en ceo
 cas, par quei il agarda qe il ne prist riens par
 soun brief.¹—Et le defendant navoit pas brief al
 Evesqe, pur ceo qe il ne luy avoit pas fait title
 pur aver eide cele.—**Moubray.** Le pleintif par son
 counte nous ad done title de presenter; par quei
 pur defaute de noun fesaunce de title nous ne
 devoms estre ouste qar nous naveroms brief al
 Evesqe.—**WILBY.** Cel conissaunce [qe le pleintif vous
 ad conu est a vous et a luy en comune, par quei
 si vous duissetz sur]² cel conissaunce aver brief al
 Evesqe, vous le duissetz aver od lui, qe ne poet
 estre; par quei ceste arette a vostre defaut qe
 vous nussetz fait title.—Par quei il ne poet brief al
 Evesqe aver.

§ William³ Derby, provandrere de la provandre *Quare impedit.*
 nostre Dame en leglise nostre Dame de Warwyke⁴
 porta *Quare impedit* vers le Dean de Warwyke et
 un autre, countant qe a tort luy destourbe a
 presenter, &c., et pur ceo a tort qe a luy appent a
 presenter ensemblement ove mesme le Dean. Et
 counta coment il et le Dean furent seisiz del
 avowere et presenterent par qi mort leglise est ore
 voide, et en la conclusioun fist mencion auxi qe a
 luy et al Dean appent a presenter.—**Setone.** Primes

¹ The judgment was, according to the roll, “Quia ad hujusmodi narrationem sic in se variantem non est respondendum, considera- tum est quod praedicti Decanus et Johannes eant inde sine die, et praedictus Willelmus nihil capiat per breve suum, sed sit in

“ misericordia, &c.”
² The words between brackets are omitted from I.

³ This report of the case is from L., and C.

⁴ L., de Everwyke; C., Deverwyke, instead of de Warwyke.

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A.D. 1846. he has counted that it belongs to him alone to present, and afterwards that it belongs to him and to another to present, and so the count is repugnant; judgment of the count.—*Pole*. That which I counted first—that it belongs to me to present—is for the purpose of being in accordance with my writ, and I cannot have any other writ in this case, and I afterwards declared my matter showing how it belongs to me and another to present, and so I could not count otherwise.—*STONORE*. Who would have a writ to the Bishop on this declaration?—*Pole*. Both of us.—*STONORE*. That would be something extraordinary on this writ.—*Pole*. I cannot have any other recovery but by such a writ.—*Grene, ad idem*. And some people say that, when two hold an advowson in common, and one presents alone, the other should bring a writ for himself and the other and should name the disturber as plaintiff and defendant, but that does not seem to be right, because if two hold jointly and one disseises the other, the disseisee will have an Assise alone, and need not name the disseisor as plaintiff; so also in this matter, the one who has committed the tort shall not be named as plaintiff.—*WILLOUGHBY*. The law formerly was, in case of an Assise of which you speak, that the disseisor should be named as plaintiff and as disseisor by diversity of surname, and so also it has to be in many cases, as in a writ of Escheat and other writs in which heirs are demandants when one deforces the others; and in that way should this writ also be brought if it is to be of any avail.—*Thorpe*. In the cases of which you speak, in which one and the same person should be named as demandant and as tenant, this rule of law extends only to cases in which the one who is tenant can be severed as demandant in his suit, in respect of his own portion, but with regard to this writ,

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ad il counte qe a luy soul appent a presenter, A.D. 1346.
 et puis qe a luy et a un autre appent a presenter,
 issint le count repugnant; jugement du count.—*Pole.*
 Ceo qe jeo primes ay counte qe a moi appent a
 presenter cest pur acorder a moun brief, et jeo ne
 puisse autre brief aver el cas, et apres desclarra ma
 matere coment a moi appent¹ a presenter et autre,
 et issint ne purroy autrement counter.—*STON.* Qi
 avereit brief al Evesqe sur ceste moustraunce?—
Pole. Nous deux.—*STON.* Ceo serreit merveille en
 ceste brief.—*Pole.* Jeo ne puisse autre recoverir
 aver forqe par tiel brief.—*Grene, ad idem.*² Et
 asquns gentz parlent qe quant deux tenent une
 avoweson en comune, et lun presente soul qe lautre
 portereit brief pur³ luy mesme et lautre, et⁴ nomereit
 le destourbour pleintif et defendant, mes ceo ne
 semble pas resoun, qar si deux tenent jointement, et
 lun disseise lautre, le disseisi avera lassise soul, et
 ne covient pas nomer le disseisour pleintif; auxi de
 ceste part celuy qad fait le tort il ne serra pas
 nome pleintif.—*WILBY.* Launcien ley fuit, el cas
 Dassise qe vous parletz, qe le disseisour serreit nome
 pleintif et disseisour par diversite de surnoun, et
 auxint covient en moltz des cas, en brief Deschet,
 et autres briefs ou heires demandent, quant un de-
 force les autres; et issint serreit ceo brief porte
 sil duist valer.—*Thorpe.* En le cas ou vous parletz,
 ou une mesme personne serreit nome⁵ demandant et
 tenant, cele lei sestent soulement quant celuy qest
 tenant poet estre severe come demandant en sa
 suite par sa porcioun, mes en ceo brief, ou sever-

¹ C., il attient a moi, instead of
a moi appent.

² The words *ad idem* are from C.
alone.

³ L., purreit presenter par,
instead of portereit brief pur.

⁴ et is omitted from L.

⁵ nome is omitted from C.

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A.D. 1346. on which severance does not lie, the law is not such.—**WILLOUGHBY.** Assise of Darrein Presentment would serve his purpose in this case, for, on the matter being found true by the assise, both would have a writ to the Bishop, and so would a stranger on verdict.—**SHARSHULLE** abated the writ, and said that the defendant would not have a writ to the Bishop, because he had not made a title for himself on this writ.

Assise of Novel Disseisin. (36.) § Reginald de Mohoun and Elizabeth his wife brought an Assise of Novel Disseisin against several persons in Cornwall, and it was adjourned into the Bench by reason of difficulty. And one of the defendants answered by attorney, and pleaded in bar. And afterwards, on another day, that defendant appointed another attorney without removing the first. The last-appointed attorney now proffered himself, and was ready to hear the verdict of the assise. The other attorney, the earlier appointed according to his warrant, pleaded in bar as before. —**Skipwith.** You see plainly that the party's attorney pleads to the assise, and therefore we have no need to answer to the plea of the other attorney, of which the object is to stop the assise; and we pray the assise. —**Grene.** When one attorney pleads in arrest of the assise, and the other pleads to the assise, the plea of that one which is most to the advantage of his client will be admitted, as, for instance, if an infant under age is impleaded, and one guardian pleads in bar, and another guardian confesses the action, the plea of the one who pleads

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aunce ne gist pas, la lei nest pas tiele.—WILBY. A.D. 1346.
 Assise de Darrein¹ Presentement luy servireit en
 ceo cas, qar sur la verite trove par assise lun et
 lautre avereit brief al Evesqe, et si avereit un
 estrange sur verdit.—SCHAR. abatist le brief, et dit
 qe le defendant naverà pas brief al Evesqe, pur ceo
 qil nad pas fait title pur luy en ceo brief.

(36.)² § Reynald de Mohoun et Elizabeth sa femme Assise de
 porterent une Assise de novele disseisine vers novele
 plusours en Cornewaille, quel fut ajourne en Baunk [Fitz.,
 pur difficulte. Et un respondi par attourne, et pleda Assise,
 120.] en barre. Et puis, a un autre jour, le defendant
 fist un autre attourne saunz remuer le primer. Le
 darrein³ attourne se profri a ore, et fut prest doier
 la reconisance dassise. Lautre attourne, leyne par
 soun garrant,⁴ pleda en barre come avant.—Skip.
 Vous veietz bien comment lattourne la partie plede
 al assise, par quei al plee lautre attourne qe chiet
 en arest dassise navoms mester de resoundre; et
 prioms lassise.—Grene. Quant lun attourne plede en
 arest dassise, et lautre plede al assise, le plee celi
 serra resceu qe plus est en avantage de son client,
 come en cas si un enfaunt deinz age soit enplede,
 un gardeyn plede en barre, et un autre gardeyn
 conust laccion, le plee celi qe plede en barre

¹ L., drein.

² From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 193. It there appears that the Assise was originally brought before Justices of Assise in the county of Cornwall, by Reginald de Mohoun, knight, and Elizabeth his wife, against John Dauney, knight, Henry Deneys, John Bereware, parson of the church of Cornwood, and Adam Bryan, in respect of 42 messuages, 4 mills,

22½ Cornish acres of land. 6½ acres of meadow, 100 acres of wood, 100 acres "jampnorum et bruers," and £9 11s. 8½d. of rent in "Ammal " Mur juxta Penpont, Tredradet " juxta Etha, et Arwoythal juxta " Restronget."

According to the roll, all the defendants appeared by attorney except Henry Deneys, and the Assise was awarded against him by default.

³ I., dreyn.

⁴ H., deigne garrant, instead of leyne par soun garrant.

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A.D. 1846. in bar will be admitted, without having regard to the plea of the other; and so also will it be in this case, since the first attorney has not been removed, and his plea is more to the advantage of his principal than the plea of the other; therefore, &c. And moreover the one who now proffers himself as attorney in virtue of a later appointment is under age, and therefore you ought not to admit him as attorney.—But as to the last point the COURT adjudged him to be of full age.—SHARSHULLE. When a guardian or next friend answers for an infant under age, it is quite right that he should have the plea who may by intendment most properly be supposed to be pleading to the advantage of the infant; and that is by reason of the infant's tender age; but when a man of full age appoints his attorneys by several warrants, and one of them confesses my action and the other denies it, then, because my action is confessed by one who has warrant to do so, the law will not put me to answer to the plea given by the other, which is a traverse of my action; therefore, &c.—The assise was awarded on the plea which the later-appointed attorney had pleaded.—*Grene*, for another of the

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serra resceu, saunz aver regard al plee lautre ; A.D. 1346.
 et auxi issi en ceo cas, puis qe le primer attourne
 nestoit pas remue, et son plee est plus en avantage
 de son mestre qe le plee lautre ; par quei, &c. Et
 auxi celi qe se profre ore come attourne de puisne
 fesaunce est deinz age, par quei vous ne li devetz
 resceivere come attourne.—Mes quant a ceo la Court
 lui ajuggea de pleyn age.—SCHARS. Quant un
 gardein ou procheyn amy respond pur enfaunt deinz
 age, il est bien reson qe celi eit le plee qe plus
 proprement par entendement purra estre suppose qe
 pleda en avantage del enfaunt; et ceo est pur la
 tendresse de soun age; mes quant homme de plein
 age fait ses attournes par several garraunt, et lun
 conust maccion, et lautre dedit, pur ceo qe maccion
 est conu par celui qad garraunt del faire la ley ne
 moi mettra pas a respoundre al plee qe lautre
 doune quest a travers de maccion; par quei, &c.—
 Sur le plee qe latourne ad plede lassise fut agarde.¹

¹ The pleas for the several defendants are not in the same order on the roll as in the reports, and there was a plea on behalf of John Bereware, in abatement of the writ, which does not appear in that form in either of the reports. It was as follows :—“quod prædicta Elizabetha, quæ tunc questa fuit, alias coram Commissariis Episcopi Exoniensis secuta fuit in causa divortii inter ipsam et prædictum Reginaldum celebrati, supponens ipsam prius fuisse despontatam cuidam Thomæ de Mohon, fratri ipsius Reginaldi, in qua quidem causa in tantum processum fuit quod divortium prædictum inter prædictos Reginaldum et Elizabetham ob certas causas coram eisdem Commissariis probatas in forma juris celebratum fuit. Et post modum super eadem causa

“diversa appella facta fuerunt
 “usque ad Curiam Cantuariensem,
 “et a Curia illa appellatum fuit ad
 “Curiam Romanam, et ibidem in
 “tantum processum fuit quod
 “Dominus papa constituit Judices
 “delegatos in negotio prædicto,
 “videlicet, Episcopum Bathonien-
 “sem et Wellensem, et Abbatem
 “Glastoniensem, qui quidem
 “Episcopus et Abbas constituerunt
 “Abbatem de Boklonde et Abbatem
 “de Tavystoke Judices subdele-
 “gatos in negotio prædicto, coram
 “quibus divortium prædictum
 “approbatum fuit et ratificatum, et
 “contractus prius inter prædictos
 “Reginaldum et Elizabeth habitus
 “omnino ad nullatus fuit, unde petiti
 “judicium de illo brevi per quod
 “supponebatur prædictam Eliza-
 “beth tunc esse uxorem prædicti
 “Reginaldi, &c.” See below, p. 280.

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A.D. 1346. defendants, said that the plaintiff Elizabeth, together with one Henry her husband, released by fine to one A.¹ all the right, &c., which Henry is still living, and by that fine she acknowledged herself to be wife of Henry, and this writ supposes that she is the wife of Reginald, which is contrary to the fine to which she was herself a party; judgment of the writ.—*Skipwith*. We say that you have nothing in the land, and that you are a stranger to the fine; judgment whether such a plea lies in your mouth.—*Grene*. It lies in the mouth of a disseisor to plead that the plaintiff is misnamed, and also to allege coverture in her if she takes the suit alone; and since we have alleged a fine to which she is a party, and by which she affirmed herself to be the wife of another person, who is still living, and they have not denied that fine, it is therefore not necessary that this coverture should be tried by the assise, since it is affirmed by her in a court of record.—*SHARSHULLE*. A disseisor will not be allowed to plead coverture in the

¹ For the real names see p. 275, note 2.

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—*Grene* pur un autre, dit qe Elizabeth qest pleintif A.D. 1346.
 ove un H.¹ son baron par fine relesserent a un A.
 tote le dreit, &c., le quel H.¹ est unquore en vie,
 par quel fine ele se conissoit estre la femme H.¹
 et cest brief la suppose la femme R., qest a contrare
 del fine a quei ele mesme fut partie; jugement de
 brief.²—*Skip.* Nous dioms qe vous navetz rienz en
 la terre, et a la fine vous estes estraunge; juge-
 ment si tiel plee en vostre bouche qise.—*Grene.*
 En bouche de disseisour gist a pleder qe le pleintif
 est malement nome, et auxi dallegger coverture en
 luy si ele prent la sute soule; et de puis qe nous
 avoms allegge fine a quei ele est partie, par quelle
 ele safferma autri femme, qest unqore en vie, la
 quelle fine ils nount pas dedit, par quei il ne covent
 pas qe cele coverture soit trie par assise, quelle en
 court de record par lui est afferme.—SCHARS.
 Disseisour navera pas de pleder coverture en la

¹ MSS. of Y.B., J.

² According to the record the plea
 on behalf of Adam Bryan was
 "quod alias in Curia domini Regis
 "..... levavit quidam finis inter
 "prædictam Elizabeth et Henri-
 "cum Daneye[sic]tunc virum suum,
 "querentes, et Johannem de Coly-
 "tone, personam ecclesiæ de Corn-
 "wode, deforciantem, de maneria
 "de Rodemeke et Pennentinys, cum
 "pertinentiis, unde placitum Con-
 "ventionis summonitum fuit inter
 "eos in eadem Curia, per quem
 "finem prædicti Henricus et
 "Elizabeth recognoverunt prædicta
 "maneria, cum pertinentiis, esse jus
 "ipsius Johannis ut illa quæ idem
 "Johannes habuit de dono præ-
 "dictorum Henrici et Elizabeth, et
 "pro illa recognitione, &c., idem
 "Johannes concessit et redditit
 "maneria illa, cum pertinentiis,
 "prædictis Henrico et Elizabeth,

"hæbenda et tenenda tota vita
 "ipsius Elizabeth. Et post
 "decessum ipsius Elizabeth pre-
 "dicta maneria, cum pertinentiis,
 "remannerent Johannifilio Nicholai
 "Daune et heredibus suis in per-
 "petuum Et dixit quod prædictus
 "Henricus Daneye [sic] ad tunc
 "superstes fuit, et nominabatur in
 "brevi unus defendantium, &c.,
 "unde petit judicium, ex quo ipsa
 "Elizabeth venit in præfata Curia
 "domini Regis, et levavit finem
 "prædictum simul cum prædicto
 "Henrico, viro suo, et ibidem
 "examinata fuit tanquam uxor
 "prædicti Henrici, si idem
 "Reginaldus et Elizabeth ad illud
 "breve per quod supponebatur ipsam
 "esse uxorem alterius quam præ-
 "dicti Henrici responderi debeat,
 "maxime cum idem Henricus
 "adtunc superstes fuit, ut superius
 "allegatum fuit, &c."

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A.D. 1846. person of the plaintiff, and particularly to allege it to be of record when he has not the record in hand; for, if the record were denied, and he failed to produce it, the land would not be put any more in danger of loss; therefore it is not right that the plaintiff should be delayed by a plea on the decision of which he could not have any recovery on the principal matter.—*Thorpe*. It is not so; for a disseisor may allege that he was on a previous occasion acquitted of the disseisin even though he has not the record in hand, and, even though he fails to produce the record, the plaintiff is taken none the nearer to the attainment of his purpose; and so also in this case, since I make you privy to the fine, though I am a stranger, I shall plead it just as much as my previous acquittal of record.—*Grene*, as to another of the defendants, said:—He answers you as tenant, and tells you that assise there ought not to be, because Elizabeth, while she was sole, released to us while in possession all the right which she had, by this deed; judgment whether in opposition to that there ought to be an assise.—*Skipwith*. As to that we

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personne le pleintif, et nomement del allegger de A.D. 1346.
 recorde quant il nad pas le recorde en poygne ;
 qar si le recorde fut dedit, et il failli de cele, la
 terre ne serra de plus pris en perde ; par quei il
 nest pas resoun qe le pleintif soit delaie par plee
 sur quel il ne put nul recoverir sur le principal
 aver.—*Thorpe.* Il nest pas issi ; qar disseisour
 alleggera qe autrefoith il fut acquite de la disseisine,
 mesqe il neyt pas le record en poygne, et mesqil
 faille del recorde, le pleintif nest nent le pluis pris
 a soun purpos ; et auxi en ceo cas, puis qe jeo
 vous face prive a la fine, mesqe jeo soy estrange,
 jeo le pledra si avant come macquitaunce autrefoitz
 trove par recorde.—*Grene,* quant a un autre, il vous
 respond come tenant, et vous dit qe assise ne deit
 estre, qar Elizabeth, tancome ele fut soule, relessa en
 nostre possession tut le dreit qe ele avoit, par ceo
 fait ; jugeant si encountre ceo fait assise deit estre.¹

¹ According to the record the plea
 on behalf of John Dauney was
 " quod tenementa in visu posita
 " non sunt nisi trigesima et sex
 " mesuagia, tria molendina, decem
 " et octo acræ terræ Cornubienses, et
 " triginta acræ bosci, et octo libratis
 " redditus tantum. Et quo ad
 " viginti mesuagia, duodecim acras
 " terræ, et sexaginta solidatas
 " redditus, de tenementis prædictis,
 " dixit quod tenementa illa sunt
 " parcella manerii de Retradek,
 " quod quidem manerium, cum
 " pertinentiis, fuit in seisinâ cujus-
 " dam Adæ Bryan, clerici, qui
 " quidem Adam per chartam suam
 " de eodem manerio feoffavit ipsum
 " Johannem et Sibillam uxorem
 " ejus habendo et tenendo eisdem
 " Johanni et Sibille et heredibus
 " ipsius Johannis in perpetuum (Et
 " protulit ibi prædictam chartam
 " quæ hoc testabatur, &c.,)
 " Et sic dixit quod ipse tenuit tene-
 " menta illa conjunctim cum præ-
 " dicta Sibilla per chartam prædic-
 " tam, et tenuit die impetrationis
 " brevis, quæ quidem Sibilla non
 " nominabatur in brevi, unde petuit
 " judicium de brevi, &c. Et quo
 " ad unum mesuagium, et
 " medietatem unius acræ Cor-
 " nibiensis de residuo tenemen-
 " torum prædicatorum dixit quod
 " eadem mesuagium et medietas
 " acræ terræ, &c., sunt parcella
 " manerii de Arwoythal, quo
 " quidem manerio in seisinâ
 " ipsius Johannis Dauney exis-
 " tente, prædicta Elizabeth,
 " quæ tunc questa fuit simul,
 " &c., dum sola fuit, per nomen
 " Elizabeth filia domini Johannis
 " fitz William, per scriptum
 " suum remisit, relaxavit, et in

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A.D. 1346. tell you that at the time of the execution of the deed she was the wife of this same Reginald; and we demand judgment, and we pray the assise.—*Grene.* You have confessed the deed, and your statement that you were the wife of Reginald at the time of its execution is not in formal words of law upon which issue can be taken without alleging coverture in you at that time; therefore the law does not put us to answer to this issue in avoidance of the deed.—*Skipwith.* We say that we were

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—*Skip.* A ceo vous dioms qa temps de la con- A.D. 1346.
 feccion ele fust la femme mesme celuy Reynald ; et
 demandoms jugement, et prioms lassise.¹ — *Grene.*
 Vous avetz conu le fait, et ceo qe vous ditetz qe
 vous futes la femme R. a temps de la confeccion,
 ceo nest pas parole formele de lei sur quei prendre
 issue saunz allegger coverture en vous adonques ; par
 quei a cele issue de voidaunce la ley ne nous mette
 a respondre.² — *Sky.* Nous dioms qe nous fumes la

“perpetuum quietum clamavit ipsi
 “Johanni totum jus et clameum
 “quod habuit, seu habere potuit,
 “in manerio illo, cum pertinentiis.
 “Et protulit ibi prædictum
 “scriptum quod hoc idem testa-
 “batur . . . unde petiit judicium
 “si contra scriptum illud assisa
 “inde inter eos fieri deberet, &c.
 “Et quo ad totum residuum tene-
 “mentorum dixit quod prædictus
 “Reginaldus per scriptum suum
 “remisit, relaxavit, et in perpetuum
 “quietum clamavit ipsi Johanni
 “Dauney totum jus et clameum
 “quod habuit, seu habere potuit
 “in maneriis de Arwoythal,
 “Retradek, Amalfur, Amalgros,
 “et Amalogros, cum pertinentiis,
 “de quibus maneriis eadem tene-
 “menta sunt parcella, Et obligavit
 “se et heredes suos ad warantizan-
 “dum ipsi Johanni et heredibus et
 “assignatis suis in perpetuum. Et
 “protulit ibi prædictum scriptum
 “quod hoc idem testabatur, . . .
 “unde petiit judicium si contra
 “scriptum illud assisa inde inter
 “eos fieri deberet.”

There are on the roll pleadings relating to John Dauney's plea of joint-tenancy, which is not mentioned in the reports. The plaintiffs replied, as to the deed of release attributed to Reginald,

“Non est factum, et hoc petierunt
 “quod inquireretur per juratam
 “loco assisse et per[names] testes
 “in eodem scripto nominatos.”
 Issue was joined on this.

¹ This pleading appears to be represented on the roll as follows :
 “Quo ad aliud scriptum sub
 “nomine ipsius Elizabeth prolatum
 “dixerunt quod ipsi non cognoscunt
 “prædictum scriptum fieri tempore
 “quo supponebatur per datam
 “ejusdem, sed dixerunt quod ipsi
 “virtute ejusdem scripti ab assisa
 “præcludi non debuerunt, dixerunt
 “enim quod tempore confectionis
 “ejusdem scripti eadem Elizabeth
 “fuit uxor prædicti Reginaldi et
 “elongata fuit ab eodem Reginaldo
 “per prædictum Johannem Dauney
 “et alios, et tempore illo, dum sic
 “cooperata fuit et etiam elongata, ut
 “prædictum est, fecit scriptum
 “illud. Et hoc parati fuerunt
 “verificare, unde petierunt
 “judicium si ipsi virtute ejusdem
 “scripti ab assisa præcludi
 “deberent, &c ”

² This pleading is represented on the roll as follows :—“Et Johannes
 “Dauney dixit quod ipse superlus
 “allegavit scriptum prædictum sibi
 “factum fuisse per prædictam
 “Elizabeth dum sola fuit, ad quod
 “prædicti Reginaldus et Elizabeth

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A.D. 1346. the wife of Reginald at that time, and so covert; ready, &c.—And upon that the other demanded judgment as before.—And now, in the Bench, *Grene* said, for the tenant, that to say that she was covert of Reginald at that time she shall not be admitted by way of avoiding the deed. The deed is confessed, and consequently the date. And we tell you (said *Grene*) that on the day which the date of the deed purports a divorce had been had between Elizabeth and Reginald,¹ and afterwards she together with Henry her husband released to one A., and in the fine by which she did so she affirmed herself to be the wife of Henry, and that at a later time than the date of the deed purports; therefore to allege coverage of Reginald in her at a previous time you shall not be admitted.—*Husee*. You shall not be admitted to that, because we were adjourned on a certain point for judgment in this Court, and therefore you shall not be admitted to waive that point, and plead other new matter. And also, inasmuch as you pleaded at the commencement in bar against us as one who is now the wife of Reginald, you shall therefore not be admitted to allege a divorce between us, or to allege a fine by which we acknowledged ourself to be the wife of another person who is living, with the object of proving that we ought not to be admitted to say that we were the wife of Reginald,

¹ See p. 273, note 1.

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femme R. a cel temps, et issi coverte; prest, &c.¹ — A.D. 1346.

Et sur ceo lautre demanda jugement come avant.—
Et ore, en Bank, *Grene* dit, pur le tenant, qe a dire
qe le fut coverte de R. adonques ele ne serra resceu
par la manere de voidaunce de fait. Le fait est
conu, et *per consequens* la date. Et vous dioms qal
jour qe la date del fait purporte divors fut fait
entre E. et R., et apres el od un H.² son baron
relessa a un A., par quel fyne ele safferma la femme
H.² et de puisne temps qe la date del fait ne
purport; par quei dallegger coverage en luy de
temps avant de R. ne serrez resceu.—*Husee*. A ceo
navendrez pas, qar nous fumes adjournez sur certain
point en jugement ceinz, par quei de weyver cele
et de pledere autre matere de novel ne serrez
resceu. Et auxi, par taunt qe vous pledez a
comencement en barre vers nous come cele qest ore
femme R., par quei dallegger divors entre nous, ou
dallegger fine par quel nous conissames estre autri
femme qest en vie, al entent de prover qe nous ne
serroms pas resceu a dire qe nous fumes la femme

“ non responderunt in evacua-
“ tionem scripti illius per verba in
“ lege terræ acceptanda, videlicet,
“ allegando quod ipsa Elizabeth
“ tempore confectionis ejusdem
“ scripti fuit cooperta de ipso
“ Reginaldo, viro suo, sed solum
“ modo allegavit [sic] ipsam tunc
“ fuisse uxorem ipsius Reginaldi.
“ quod intelligi potest per legem
“ ecclesiasticam per contractum
“ matrimonii licet sponsalia non
“ fuissent celebrata in facie ecclesiae,
“ per quod non intendebat quod
“ responsio illa sufficiens fuit, &c.,
“ unde petit judicium, ut prius, si
“ contra scriptum illud assisam
“ habere deberent, &c. Et, si
“ videretur Curia quod responsio
“ illa sufficiens esset per legem

“ terræ acceptanda, paratus fuit
“ satis dicere in manutenentiam
“ scripti &c.”

¹ This pleading is represented on
the roll (which however is torn and
defective) as follows:—“ Et pre-
dicti Reginaldus et Elizabeth
dixerunt quod ex quo prædictus
Johannes Dauney

“ Elizabeth fuisse uxorem ipsius
“ Reginaldi tempore confectionis
“ scripti prædicti m
“ est, et petierunt judicium, ut
“ prius, si ipsi virtute scripti pre-
“ dicti si videre
“ illa non esset
“ sufficiens ad scriptum illud
“ evacuandum, parati fuerunt satis
“ dicere, &c.”

² MSS. of Y.B., J.

No. 86.

A.D. 1846. since you have accepted the reverse on this original writ.—Therefore *Grene* said that she was sole at the time of the execution of the deed; ready, &c.—And the other side said the contrary.—And, as to the plea delivered by the disseisor in abatement of the writ on the ground of the fine by which she acknowledged herself to be the wife of another person, it was adjudged that this plea did not lie in his mouth, because she was not tenant, and the assise was awarded against him.

No. 86.

R., puis qe en cest original avez accepte le revers, A.D. 1346.
 ne serrez resceu.—Par quei *Grene* dit qele fut soule
 a temps de la confection, prest; &c.—*Et alii e contra.*—Et, quant al ple livre par le disseisour en
 abatement de brief par la fyne par quelle ele se
 conissoit estre autri femme, fut agarde qe ceo plee
 ne geust pas en sa bouche, pur ceo qele nest pas
 tenant: et lassise agarde vers luy, &c.¹

¹ The conclusion of the case on the roll is as follows:—"Et, quod prædictum divortium et etiam quoad prædictum finem per prædictos Johannem Bereware et Adam separatum superius allegata, prædicti Reginaldus et Elizabeth, protestando quod ipsi non cognoverunt aliquod hujusmodi divortium nec aliquem hujusmodi finem levatum fuisse nec prædictum Henricum unquam fuisse virum ipsius Elizabeth, dixerunt quod prædicti Johannes Bereware et Adam nihil habuerunt in tenementis in visu positis, immo prædictus Johannes Dauney fuit adtunc tenens de eisdem, et fuit prædicto die impetracionis brevis. Et idem Johannes Bereware non fuit pars in prædicta causa divortii per ipsuni allegatam, nec prædictus Adam pars nec heres partis finis prædicti, nec etiam iidem Johannes et Adam aliquid de recordo Curie ostenderunt testificans allegationes suas prædictas, per quod in ore ipsorum non jacuit per hujusmodi placitum breve istud cassare, maxime cum placitum illud in nullo se extendit ad excusandum personas suas de disseisina prædicta, nec etiam ad formam brevis, &c., unde petierunt judicium si in ore ipsorum non fuissent acceptanda."

" hujusmodi placitum placitare Et si videretur Curie quod hujusmodi placitum in ore ipsorum jaceret parati fuerunt ad ea respondere, &c. Et petierunt quod assisa consideraretur capienda versus eos, &c.

" Et Johannes Bereware et Adam singillatim dixerunt quod quamvis ipsi non fuissent tenentes tenementorum in visu positionum, nec partis eorundem, ipsi tamen nominabantur in brevi defendentes, versus quos prædicti Reginaldus et Elizabeth intendant debant damna recuperare, per quod videbatur eis quod ad exonerandum ipsos de damnis ad hujusmodi placitum ad breve cassandum admitti debuerunt, maxime cum placitum illud in nullo se extendit ad liberum tenementum sed ad cassationem brevis. et, quamvis ipsi non fuerunt partes prædictorum divortii et finis, ipsi tamen parati fuerunt illa verificare qualitercumque Curia consideraverit, unde petierunt judicium si responsiones prædictæ in ore ipsorum non fuissent acceptanda."

Then comes an adjournment before the same Justices at Westminster, and eventually one into the Common Bench. The

No. 36.

A.D. 1846. § An Assise of Novel Disseisin was brought in Assise of Cornwall against several persons by one A.¹ and his Novel Disseisin wife. One of the defendants, as tenant, pleaded in bar on the ground that the wife who was plaintiff released, &c., while she was sole. To this the plaintiff said that she was her husband's wife at the time of the execution of the release, but without acknowledging the date. And it was replied that this plea, without the addition of the words "and covert," was not admissible, and could not be tried by the words "wife or not wife." Another defendant, who was not tenant, said that on another occasion this same B.,² who is now plaintiff, as the wife of one W.,³ which W.³ is still living, together with W.² rendered certain tenements to a certain person by fine, and the defendant had W.'s estate, and demanded judgment of this writ, by which she was supposed to be the wife of A.³ To this it was replied that, since

¹ For the names of the parties, | ²For the names, see p. 275,
see p. 271, note 2. | note 2.

No. 36.

§ *Assisa¹ Norœ Disseisinæ*, en Cornewaille,² vers A.D. 1346.
 plusours, par un A. et sa femme. Un come tenant
 pleda en barre pur ceo qe la femme pleintif tanqe
*Assisa
Norœ
Disseisinc.*
 come ele fuit sole relessa, &c. A qai le pleintif dit
 qele fuit sa femme al temps de la confeccion, nient
 conissaunt la date. Et fuit replie qe cele plee, sil
 nust dit et covert, nest pas acceptable, ne triable
 par cele paroule de femme ou nient femme. Un
 autre, qe nest pas tenant, dit qautrefoith qe mesme
 ceste B. qest³ ore pleintif, comme femme un W.,
 quel W. est unqore en pleine vie, ensemblement ove
 W., rendirent certainz tenementz a un par fine,⁴ q*i*
 estat il ad, et demanda jugement de ceo brief par
 quel est⁵ suppose estre la femme A. A qai fuit

proceedings there were as
 follows:—

“ Johannes Bereware, quæsusitus
 “ per Curiam si aliquid sciat dicere
 “ quare assisa ista remanere debet,
 “ &c., dicit quod non, Ideo quo ad
 “ eum capiatur assisa, &c.
 “ Et Johannes [Dauney] dicit,
 “ sicut alias dixit, quod prædicta
 “ Elizabeth, dum sola fuit, per
 “ scriptum suum remisit et quietum
 “ clamavit ipsi Johanni Dauney
 “ totum jus et clamatum quod
 “ habuit in prædicto manerio de
 “ Arwoythel, et profert hic præ-
 “ dictum scriptum quod hoc testa-
 “ tur, &c., unde petit judicium si
 “ ipse Reginaldus et Elizabeth
 “ contra factum ipsius Elizabeth
 “ assisam inde versus eum habere
 “ debeant, &c.
 “ Et Reginaldus et Elizabeth
 “ dicunt quod tempore confectionis
 “ prædicti scripti ipsa Elizabeth
 “ fuit uxor prædicti Reginaldi
 “ elongata de eo Reginaldo, viro suo,
 “ sicut ipsi superius asserunt. Et
 “ hoc parati sunt verificare per
 “ assisam, &c. Et petunt judicium
 “ et assisam, &c.

“ Et Johannes Dauney dicit quod
 “ tempore confectionis prædicti
 “ scripti præfata Elizabeth non fuit
 “ uxor prædicti Reginaldi, sicut
 “ iidem Reginaldus et Elizabeth
 “ dicunt. Et de hoc ponit se super
 “ assisam. Et Reginaldus et
 “ Elizabeth similiter.
 “ Ideo capiatur jurata loco assisæ.
 “ &c.
 “ Et quia data prædicti scripti
 “ quod prædictus Johannes Dauney
 “ protulit sub nomine prædicti
 “ Reginaldi est de data apud
 “ Nortone in Comitatu Devoniæ,
 “ et etiam prædicti testes de
 “ eodem comitatu, &c., præceptum
 “ est eidem Vicecomiti Devoniæ
 “ quod venire faciat hic in Octabis
 “ Sanctæ Trinitatis prædictos
 “ testes, et præter illos xij, &c., de
 “ visneto de Nortone, per quos,
 “ &c.”
¹ This report of the case is from
 L., and C.
² MSS. of Y.B., Devone.
³ qest is omitted from C.
⁴ The words par fine are omitted
 from C.
⁵ C., ele.

No. 36.

A.D. 1346. that defendant had nothing in the tenancy, and also was a stranger to the fine, the plea did not lie in his mouth. A third defendant pleaded another plea. And they were adjourned upon the whole matter into the Bench. There the third defendant appeared by attorney, who said that he was ready to hear the verdict of the assise.—*Grene*. There is as his attorney here another person in our case, and we are of counsel for him, and that other attorney was in his first plea which was pleaded in the country, and since this person is acting in covin with the plaintiff, it is not right that he should be heard to the damage of his principal, when the other is in Court, and wishes to act for the benefit of his principal, and to abate the plaintiff's writ.—*SHARSHULLE*. We record that this one is attorney, and he says nothing wherefore the assise shall not be had, and, even though there be another attorney, we have no regard to that which he says.—*Thorpe*. Suppose one attorney were willing to render the land of his principal, and another wished to defend it, would you not admit the one who would defend the land? And if a defendant has two attorneys, and one wishes to confess a release which is pleaded in bar, and the other wishes to deny it, will you not admit the plea of the one who makes the best plea for his principal?—*SHARSHULLE*. The cases are not alike.—And *SHARSHULLE* said, and the COURT also, with regard to this matter, that it was not necessary for one who was to be guardian of an infant under age to have a warrant, even though he were tenant and wished to plead in bar, because the Court will of itself appoint and accept a guardian.—*STONORE*. As to this point you are on the assise, and, as to the other point touching the defendant who has nothing in the tenancy, it would be hard to prove that, when a tenant of the land has affirmed the writ to be good, by such a supposition of a fine to which he is a stranger, he would abate the writ.—

No. 36.

replie qe¹ puis qil nad rienz en la tenance, et A.D. 1346.
auxint est estrange a la fine, qe cele plee en² sa
bouche ne git pas. Le terce pleda autre plee. Et
furent adjournez sur tut en Baunk, ou le terce
apparust par attourne, et dit qil fuit prest doier la
reconisaunce.—*Grene*. Il y ad soun attourne cy un
autre devers nous, et sumes de soun counseille, et
fuit en³ soun primer plee plede en pays,⁴ et coment qe
celuy soit del covyn le plaintif, il nest pas resoun
qil soit escote en damage de soun mestre, quant
autre est en Court, et voet faire le profit soun
mestre, et abatre le brief le plaintif.—*SCHAR*. Nous
recordoms qe celuy est attourne, et il ne dit rienz
pur qai assise ne se fra, et, tut soit autre attourne,
nous navoms nulle regarde a ceo qil dit.—*Thorpe*.
Jeo pose qun attourne voet rendre la terre soun
mestre, et un autre la voet defendre, ne resceiveretz
vous celuy qe voet defendre la terre? Et si un
demandant eit deux attournes, et lun voet conustre
le relees qest plede en barre, et lautre voet dedire
le, ne resceiveretz vous le plee de celuy qe meuth
plede pur soun mestre?—*SCHAR*. *Non est simile*.—Et
SCHAR. dit, en ceste matere, et la COURT auxint, qe
celuy qe serra gardein pur enfant deinz age ne
bossoigne⁵ pas daver garraunt, tut soit il tenant et
voet pleder en barre, qar la Court fra⁶ et acceptera
gardeyn de luy mesme.—*STON*. Quant a ceo cy vous
estes al assise, et, quant al autre point celuy qe nad
rienz en la tenance, il serreit fort a prover qe,
quant tenant de la terre ad afferme le brief boun,
par tiel supposer dune fine a quel il est estrange,
qil abatereit le brief.—*Grene*. Jeo pose qil volleit

¹ C., de.² C., est.³ en is omitted from C.⁴ The words en pays are omitted from C.⁵ C., bussoigne.⁶ fra is omitted from C.

No. 36.

A.D. 1846. *Grene.* Suppose he wished to say that she is the wife of W., and not the wife of A., it is certain that he would have that plea, notwithstanding the fact that he has nothing in the tenancy; for the same reason he will also have this plea by matter of record.—*SHARSHULLE.* No, he is a stranger, and that plea of which you speak must go to the country in some form.—*Grene.* Certainly not.—*STONORE.* What would happen if the record were denied, and you failed to produce the record?—*Grene.* There would be just the same mischief if he were privy to the fine, and were to plead in such a manner; and an infant under age can plead a record in bar, and, even though he fail to produce the record, the land will not be lost.—*STONORE* awarded the assise against him.—*Grene.* With regard to the third point, we have taken the objection that he has not avoided the release by a plea which is admissible.—*SHARSHULLE.* He says that she was his wife, and covert of him, and even though he were not to express that word "covert," we hold the other expression to be sufficiently good, that is to say "wife."—*Grene.* Then we say:—Not covert of him, nor his wife, at the time of the execution of the deed; ready, &c.—*Huse.* You must say that she was sole.—*WILLOUGHBY.* No, the plea came from you that she was your wife, and covert of you, and therefore the traverse will be taken in that manner. *Huse.* Is not his plea that she released when sole? Therefore he must maintain that.—*WILLOUGHBY.* No, he has met you.—*Huse.* Our wife, and covert of us; ready, &c.—And the other side said the contrary.—And the assise was remanded in respect of the whole matter.—And it was said in this plea that one who has nothing shall not in an Assise be permitted to delay the assise by any record, whatsoever it may be, and that, if a defendant wished to allege outlawry in the plaintiff's person, he must have the record ready, &c.

No. 36.

dire qele est la femme W., et¹ noun pas la femme A.D. 1346.
 A., *certum est* qil avera le plee, *non obstante* qil nad rienz en la tenaunce; par mesme la resoun ceo plee par recorde.—SCHAR. Nanille, il est estrange, et en asqun pays il faudra de ceo plee com vous parletz.—*Grene*. Nanille, certes.—STON. Qai avendreit si le recorde fuit dedit, et vous faillistetz² del recorde.—*Grene*. Mesme le meschief serreit sil fuit prive a la fine, et pledast par tiele manere; et un enfant deinz age pledera en barre par recorde, et, tut faillist il del recorde, la terre ne serra pas perdu.—STON. agarda lassise vers luy.—*Grene*. Nous avons challenge de ceo qil nad pas voide le relees par plee acceptable quant al terce point.—SCHAR. Il dit qele fuit sa femme et covert de luy, et, tut ne deist il pas cele parole covert, nous tenoms lautre assetz boun,³ saver, la femme.—*Grene*. Donges dioms qe nient covert de luy, ne sa femme, al temps de la confeccion; prest, &c.—*Huse*. Vous dirretz qe sole.—WILBY. Nanylle, le plee vint de vous qe vostre femme, et covert de vous, par qai par cele manere serra le travers pris.—*Huse*. Nest son ple qele sole relesa? Par qai cella covient il meintener.—WILBY. Nanille, il vous ad servy.—*Huse*. Nostre femme, et covert de nous; prest, &c.—*Et alii e contra*.—Et lassise remaunde de tut.—Et fuit parle en ceo plee qe celuy qe rienz ad en Assise ne serra pas resceu a delaier assise par qecunqe⁴ recorde qe⁵ ceo fuit, et, sil volleit allegger utlagerie en la personne le pleintif, il coviendrait aver recorde prest, &c.

¹ et is omitted from C.² C., fausissates.³ boun is omitted from C.⁴ C., qicunqe.⁵ qe is omitted from L.

No. 37.

A.D. 1346. (37.) § The King brought a *Quare impedit* against the Bishop of Norwich, and counted that King John was seised of the advowson and presented, which King John aliened the advowson to one R.,¹ to hold of him and of his heirs, and this R., in the time of the King the father² of the present King, aliened the advowson to the predecessor of this Bishop and his successors for ever, and therefore the right to present accrued to the King the father. And from the King the father (Edward II.) he made the descent to the present King (Edward III.). And so he said it belonged to the King to present.—*Moubray*. You see plainly how the King, in his declaration, takes divers causes for presenting:—one in that his tenant aliened without license, another the alienation in mortmain.—And this exception was not allowed.—*Moubray*. We tell you that the Bishop and his predecessors have held the advowson from time whereof memory runs not, *absque hoc* that the presentee of King John was admitted or instituted by the Bishop on his presentation, and *absque hoc* that the advowson was held of the King *in capite*, and *absque hoc* that the advowson was aliened to our predecessor by R.; ready, &c.—*Grene*. You see plainly how he has tendered divers issues against the King, which are not admissible, and therefore we pray a writ to the Bishop.—*Skipwith*. We do not take any new matter of ourselves, but all that we say is a traverse of your count; for, if we were to take issue on one point, the others would be held as not denied by us; therefore, on account of the mischief, we must have them all, and you can elect, on behalf of the King, the plea on which to take issue, and the others will be saved to you by way of protestation.—*SHARSHULLE*. He gives you an advantage inasmuch as he has traversed all the

¹ To the Prior of St. Bartholomew, | ² The grandfather (Edw. I.) Smithfield, according to the record. | according to the record.

No. 87.

(87.)¹ § Le Roi porta *Quare impedit* vers Levesqe A.D. 1346.
 de Norwitz, et counta coment le Roi J. fust seisi *Quare impedit.*
 del avowesoun et presenta, le quel Roi J. aliena [Fitz.,
 lavowesoun a un R. a tener de luy et de ses *Issue,*
 heirs, le quel en temps le pere le Roi qore est
 aliena lavowesoun al predecessor cesti Evesqe et
 ses successors a touz jours, par quei acrust al Roi
 le pere a presenter. Et de lui fit la descente al
 Roi qore est: et issi appent, &c.—*Moubray.* Vous
 veiez bien coment le Roi preut en sa demoustraunce
 divers causes a presenter: un par taunt qe soun
 tenant aliena saunz licence, un autre lalienacion en
 morte meyn.—*Et non allocatur.*—*Moubray.* Nous vous
 dioms qe Levesqe et ses predecessors ount tenu
 lavowesoun de temps dount memore ne court, saunz
 ceo qe le presente le Roi J. fut resceu ou institut
 de Evesqe a son presentement, ou saunz ceo qe
 lavowesoun fut tenu du Roi en chef, ou saunz ceo
 qe lavowesoun fut aliena a nostre predecessor par
 R.; prest, &c.—*Grene.* Vous veietz bien coment il
 tendi divers issues vers le Roi, queux ne sount pas
 receyvables, par quei nous prioms brief al Evesqe.—
Skip. Nous ne pernoms nulle novelle matere de
 nous mesmes, mes quanqe nous parloms est a
 travers de vostre counte; qar, si nous preissons
 issue sur un, les autres serront tenuz a nent dedit
 de nous; par quei, pur le meschief, il covent qe
 nous eioms trestouz, et vous poietz eslire, pur le
 Roi, de prendre issue de plee, et les autres vous
 serront sauvez pur protestacion.—*SCHARS.* Il vous
 fait avantage en taunt qil traversa trestouz, qar il

¹ From H., and I. This is another report (continued some what further) of Y.B., Hil., 20 | Edw. III., No. 31, and the record is among the *Placita de Banco*, Hil., 20 Edw. III., R^o 331, d.

No. 87.

A.D. 1346. points, because he gives you the advantage of taking issue on which of them you will; therefore consider.—*Grene* offered to aver every point of his count.—*Skipwith*. You can join issue only on one point.—*Grene*. As largely as you have tendered the issues so largely shall I have to maintain them, and particularly on behalf of the King, because, if one of the points were to be found in favour of the King, and the others against him, the King would still attain his purpose; therefore we cannot be restricted to one point alone, since he has tendered an averment in respect of all of them.—*SHARSHULLE* said to *Moubray* that he must tender issue of the plea on one point, and make protestation on the other points.—Therefore *Moubray* said that the parson was not admitted on the presentation of King John; and, with regard to the other points, he made protestation that he did not confess them.—*Thorpe*. Now we will return to our case for the King. Since he tendered divers peremptory pleas as his answer to the King, whereas one would have availed him, and he could have made protestation on the others, as he now does, he has therefore now come too late to restrict himself to that one; and we demand judgment for the King.—*HILLARY*. To that answer which he gave including several members you replied with reference to all the points; and because the Court was of opinion that you could not have issue on them all, the Court would have put you to elect one out of them all for the King, and you would not do so, but wished to have the averment on them all; therefore, as you failed to do that, we said to him that he must elect the issue on a certain point, and so he has done; and therefore it seems that, in accordance with the manner of this plea, he may well enough restrict himself to this issue.—And they were adjourned, &c.

No. 37.

vous dounre lavantage de prendre issue sur quel qe A.D. 1346.
 vous voillez ; par quei avisez vous.—*Grene* tendi
 daverer chescun point de son counte.—*Skip*. Vous
 rejoindrez mes sur un point.—*Grene*. Auxi large-
 ment come vous avetz tendu les issues auxi
 largement avera jeo de les meyntener, et nomement
 pur le Roi, qar si un des pointz fut trove pur le
 Roi, et les autres encontre luy, unqore avereit le
 Roi son purpos ; par quei nous ne poums sur un
 point relier, puis qil les ad touz tendu daverer.—
SCHARS.¹ dit a *Moubray* qil luy covent tendre issue
 de plee sur un point, et faire protestacion sur les
 autres pointz.—Par quei il dit qe la personne ne fut
 pas resceu al presentement le Roi ; et des autres
 pointz il fit protestacion qil ne les conissast pas.—
Thorpe. Ore voloms retourner pur le Roi. Puis qil
 tendi divers peremptores pur respons vers le Roi,
 ou un lui pout aver value, et aver fait protestacion
 sur les autres, come ore fait, par quei a ore trop
 tard est il venu de relier sur luy ; et demandoms
 jugement pur le Roi.—*HILL*. Encountre cel respons
 qil dona de divers membres vous rejoinastes a touz
 les pointz ; et pur ceo qe avis fut a la Court qe
 vous ne purrietz aver issue sur touz, la Court vous
 voleit aver mys daver eslieu lun de touz pur le
 Roi, et vous nel voudrietz,² mes voudrietz² aver eu
 laverement sur touz ; par quei, en defaute de vous,
 nous deismes a luy qil eslieust³ lissue sur un
 certeyn point, et si ad il fait ; par quei il semble
 solonc⁴ le maner de cel plee il avera de relier sur
 ceste issue assetz bien.—Et adjornantur, &c.⁵

¹ H., *Skip*.² H., voderetz.³ H., eslut.⁴ H., solom.

⁵ For the conclusion of the case
 as it appears upon the record, see
 above Hil., No. 31, p. 105, note 5.

No. 38.

A.D. 1346. (38.)¹ § John de Stonore and John his son brought Trespass. a writ of Trespass against an Abbot, and counted that they were lords of the manor of Ermington, and said that the river Erme takes its course towards the sea through their manor, so that the said river is parcel of the said manor, and, this notwithstanding, the defendant came and fished in the river aforesaid *ibidem*, and took and carried off fish, to wit, bream and pike.—*Rokel*. Judgment of the writ: for you see plainly how he has by his writ assigned the trespass as being committed in the Erme, which is supposed by his count to be a river, which river extends into divers vills, to wit, K., P., and R.,² and he has not determined in which of the vills the trespass was committed; judgment.—*Skipwith*. We

¹ For a similar case in which John de Stonore was plaintiff, see above No. 32 in this term.

² For the names of the vills, see p. 295, note 5.

No. 38.

(38.)¹ § Johan de Stonore et Johan son fitz² A.D. 1346.
 porterent brief de Trespas vers un Abbe, et Trans.
 counterent qils furent seignurs del maner de E.,
 et dit ge la rivere de E.³ prent soun cours de la
 miere par mie son maner, issi la dite rivere est
 parcele del dit maner, la vient le defendant et en
 la rivere avaudite *ibidem* pescha, et pessouns, saver,
 bremes et luces, &c., prist et enporta.⁴ — *Rokel*.
 Jugement du brief: qar vous veietz bien coment il ad
 assigne par son brief le trespas estre faite en E.,⁵ qest
 suppose par son counte une rivere, quele rivere ses-
 tent en divers villes, saver, K. P. et R., et il nad pas
 determine en quel des villes le trespas se fist; jugement.⁵

¹ From H. and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 84. It there appears that the action was brought by John de Stonore, and John his son, against William, Abbot of Buffestre (the modern Buckfastleigh), and several others.

² H., fitz.

³ MSS. of Y.B., A.

⁴ The plaintiffs alleged in the writ that "cum iidem Johannes de Stonore et Johannes filius ejus teneant manerium de Ermynstone, cum pertinentiis, ipsique et omnes alii manerium praedictum tenentes quandam ripariam ibidem vocatam Erm tanquam parcellam maerii illius usque in altum mare, mari tam affluente quam defluente, absque hoc quod aliquis alias in eadem riparia piscari debaret, &c., a tempore quo non extat memoria, pacifice tenuissent et habuissent, praedicti Abbas [and the others] in riparia praedicta vi et armis piscati fuerunt, et piscem inde ad valentiam centum librarum ceperunt et

" asportaverunt." In the declaration the fishes taken are stated to be "salmones . . . bramos, mulettos, et alias diversos pisces," and it is added that the defendants "ingenia ipsorum Johannis de Stonore et Johannis filii ejus ibidem posita pro pisce capiendo extirpaverunt et frerunt."

⁵ The plea in abatement of the writ was, according to the record, "quod, cum praedicti Johannes de Stonore et Johannes filius ejus per breve suum supponant quod ipsi tenent praedictum manerium de Ermynstone, ipsique et omnes alii manerium illud tenentes quandam ripariam ibidem vocatam Erm tanquam parcellam ejusdem manerii usque ad altum mare, non supponendo ripariam illam esse in aliqua villa, dicunt quod riparia illa se extendit in diversis villis, videlicet in Flete, Denmarle, Holbeaton, Backisburgh, Orcharton, et Kyngestone, et alias diversis villis, et in eodem brevi non inseritur in qua villa riparia illa sit, unde petunt judicium de brevi, &c."

No. 88.

A.D. 1346 have supposed the trespass to have been committed in the Erme, and we have supposed by our count that the Erme is parcel of the manor of Ermington, and we have said that you fished in the Erme, which is to be understood to be in parcel of the manor, and so the writ is sufficiently definite; judgment.—*Mutlow*. We have alleged that the river extends into divers vills, which fact is not denied by him, and, in that case, if we were at issue, neither the Court nor the Sheriff would know from what neighbourhood the jury should come.—*Thorpe*. If an Abbot brings a writ of Trespass in respect of trees cut down within his Abbey, the writ is good without mention of any particular vill; so also in this case, since we have supposed the trespass to have been committed in the Erme, which is a river, and we have supposed by our count that the place in which the trespass was committed is parcel of the manor, that is sufficient, because the jury will come from that neighbourhood.—And they were adjourned, &c.

Trespass. § John de Stonore and John his son brought a writ of Trespass against the Abbot of Buckfastleigh, supposing themselves to be lords of the manor of Ermington, and supposing that the river Erme, flowing and ebbing as far as the high sea, is parcel of their manor, within which they have a free fishery, and that the Abbot had fished there.—*Mutlow*. This is a writ of Trespass, and ought to be brought in a vill, and we tell you that the river extends into several vills (and he mentioned them by name); judgment of this writ which is not brought in a vill or in a hamlet.

No. 88.

—*Skip.* Nous avoms suppose le trespass estre fait A.D. 1346 en E.¹ et avoms suppose par counte E.¹ estre parcelle del maner de E., et avoms dit qe vous peschastes en E.¹ qest a entendre en le parcel del maner, et issi le brief assetz en certain; jugement.² —*Muttl.* Nous avoms allegge qe la rivere sestent en divers villes, quele chose nest pas dedit de luy, en quel cas, si nous fuissoms a issue, Court ne savereit ne Vicounte de quel visne pais vendra.—*Thorpe.* Si un Abbe porte brief de Trespas des arbres copes deinz sa Abbeye, le brief est bon, sanz doner certain ville; auxi de ceste part, puis qe nous avoms suppose le trespass estre fait en E.¹ qest rivere, et lavoms suppose par counte cel lieu ou le trespass se fist estre parcelle del maner, assetz suffist, qar de cele visne pays vendra.—*Et adjornantur, &c.*³

§ Johan⁴ de Stonore et Johan soun fitz portèrent Trans. brief de Trans vers Labbe de B., supposaunt qils souint seignours del maner de E., et qe la River de E., folauant et refolaunt tanqen le haut mere, est parcelle de lour maner, deinz quel ils ount fraunk⁵ pescherie, et qe Labbe illoeques ad pesche.⁶ —*Mutl.* Cest un brief de Trans, et duist estre porte en ville, et vous dioms qe la River sestent en plusours villes, et les noma; jugement de ceo brief qe nest porte en ville nen hamelle.

¹ MSS. of Y.B., A.

² The replication was, according to the record, " quod cum prædictus Abbas et alii in responsione sua non dedicunt quin prædicta riparia est parcella prædicti manerii de Ermynstone, quod manerium est in villa de Ermynstone, quod de jure intelligi non potest esse in aliam villam [sic], nec dedicunt quin ipsi in riparia illa piscati fuerunt, sicut iidem Johannes et Johannes superius

" queruntur, et nihil aliud ad istud breve de transgressione de injuria sua excusanda allegant, licet sœpius per Curiam requisiti, petunt judicium et damna sibi adjudicari."

³ Several adjournments appear upon the roll, but nothing further.

⁴ This report of the case is from L., and C.

⁵ C., franchise.

⁶ MSS. of Y.B., pescherie.

No. 89.

A.D. 1846. (89.) § A man prayed aid on the ground that the land had been rendered to him by fine for term of life, with remainder in fee tail to the person of whom he prayed aid, and he was ousted from the aid.—*Quære* the reason of the difference that in a case in which a reversion is granted in tail by deed *in pais* he will have aid, and yet a fine gives an immediately vested right without attornment as much as attornment gives it when the grant is by deed *in pais*.—And afterwards he prayed aid of the same person and of her parcener as of those who were the right heirs of the tenant for term of life, to which right heirs a remainder in fee simple was limited.—*Seton*. You cannot be admitted to that, because at the beginning you prayed aid of one whom you supposed to have the reversion alone, and therefore to pray aid now of others, supposing the reversion to be to them in common, you shall not be admitted.—*STROUFORD, ad idem*. Since the remainder in fee simple has not yet arrived by reason of the fee tail which is still in existence, it would be a strong measure to have aid of them until the fee tail is at an end.—*Grene*. We have seen it adjudged within the last two years that a person to whom a remainder in fee tail was limited by fine should be admitted to defend; and yet he could not have a writ of Entry *in consimili casu*; therefore in accordance with the law to the effect that he should be admitted to defend we should in like manner have aid of him.—And because he could not have aid by reason of the remainder in tail, and the remainder in fee simple has not yet arrived, he was therefore ousted from aid.—And afterwards he vouched, and was admitted to do so.

Dower. § Dower. Aid was prayed by tenant for term of life of one M., to whom and to the heirs of her body, &c., a remainder was limited by fine after the

No. 89.

(39.)¹ § Un homme pria eide pur ceo qe la terre A.D. 1346. lui fust rendu par fine a terme de vie, le remeindre Eide. a celi de qi il pria eide en fee taille, et fut ouste del eide.—*Quære causam diversitatis*, qen cas qe reversion est graunte en taille par fait en pays il avera leide, et fyne doune dreit immediate vestu saunz atturnement auxi bien come fait atturnement par fait en pays.—Et apres il pria eide de mesme celi et de sa parcenere come de ceux qe furent dreits heirs le tenant a terme de vie, a queux dreits heirs remeindre de fee simple fut taille.—*Setone*. Vous navendrez pas, pur taunt qe vous priastes eide a commencement del un, supposant lui soul aver la reversion, par quei ore a prier eide dautres, supposant la reversion a eux en comune ne serrez resceu.—*Stourf. ad idem*. Puis qe le remeindre de fee simple nest pas unqore venu pur la taille qe demoert, il serreit fort daver eide de eux taunqe la taille fut termine.—*Grene*. Nous avoms veu deinz ces ij aunz ajugge qe celi a qi remeindre fut taille par fine en fee taille fust resceu, &c.; et unqore ne poet il pas aver brief dentre *in consimili casu*; par quei par autiel lei qil serreit resceu nous averoms eide de lui.—Et pur ceo qe par cause del remeindre taille il navera pas eide, et le remeindre de fee simple nest pas unqore venu, par quei il fut ouste del eide.—Et puis il voucha, et resceu, &c.

§ Dowere.² Eide prie par tenant a terme de vie Dowere. dun M.. a qi le remeindre fuit taille apres soun decees et les heirs de soun corps, &c., par fyne.—

¹ From H., and I., until other-
wise stated.

² This report of the case is from
L., and C.

No. 40.

A.D. 1346. death of the tenant for life.—*Seton*. You are praying aid of one who has nothing, and who by possibility never will have anything, and therefore aid of her is not grantable.—*Birton*. A right is now vested by the fine, and if a reversion in fee tail, after the death of the tenant for term of life, is granted, aid of the reversioner is grantable; for the same reason it is grantable of one in remainder, particularly when his estate is by fine.—And by judgment he was ousted from the aid.—As to another parcel he showed that he purchased jointly with H. Gernet, by fine, to hold to him and the heirs of H., and he prayed aid of the heirs of H.—*Seton*. H., at the time of his death, had nothing in the reversion, nor fee, nor right; ready, &c.—*HILLARY*. You do not deny that he was purchaser by the fine, which proves the inheritance to have been in H., and therefore let him have the aid.—*Birton*, with regard to the aid first prayed, said that a fine was levied as above, and with a remainder, in default of issue between husband and wife, to the right heirs of H. And M., of whom we have prayed aid (continued *Birton*) is one of those heirs, and we pray aid of this M. by reason of the limitation of the fee simple which abides in her.—*STOUFFORD*. You cannot have aid by reason of two rights, and, notwithstanding the first right, you are ousted by judgment, and you shall not have aid of M. by reason of the right in fee simple without her co-heirs.—Afterwards he prayed aid of M. and her co-parceners, but was ousted.

Attachment on Prohibition.

(40.) § Attachment on Prohibition was sued against two persons supposing that they had sued in Court

No. 40.

Setone. Vous prietz eide de cely qe rien nad, et A.D. 1346.
 par possiblete jammes navera, par qai de luy eide
 nest pas grantable. — *Birtone.* Dreit est vestu
 maintenant par la fyne, et si reversion soit grante,
 apres le decees del tenant a terme de vie, en fee
 taille, eide de celuy en la reversion est grantable ;
 par mesme la resoun de celuy en le remeindre,
 nomement quant son estat est par fyne. — Et par
 agarde il est ouste del eide. — Quant a autre parcelle
 il moustra qil purchacea joint ove H. Gernet a luy¹
 et les heirs H. par fyne, et pria eide des heirs H.
 — *Setone.* H., al temps de sa mort, navoit rienz en
 la reversion, ne fee, ne dreit; prest, &c. — *HILL.*
 Vous ne deditetz pas qil ne fuit purchaseour par la
 fyne qe prove lenheritance en H., par qai eit leide.
 — *Birtone*, quant al primer eide, dist qe fyne
 se leva *ut supra*, et pur defaut dissue entre eux as
 dreits heirs H., qun des heirs M. est, de qi nous
 avoms prie eide, et prioms eide de cele M. par cause
 del taille qe par fee simple demuraunt en luy. —
STOUE. Vous ne poietz aver eide par cause de deux
 dreitz, et *non obstante* le primere dreit vous estes
 ouste par agarde, et par cause del dreit simple vous
 naveretz pas de M. eide sanz ses coheirs. — Puis il
 pria eide de M. et ses parceneres, et fuit ouste.

(40.)² § Attachement sur la prohibicion fuist tuy *Attachement sur
 vers ij supposant qils duissent aver tuy en Court
 prohibicion.*

¹ The words a luy are omitted from C.

² From H., and I., but corrected by the two records, *Placita de Banco*, Easter, 20 Edw. III., R^o 263, and R^o 263, d. According to the former an action was brought by John atte Newehalle against Dionysius de Eggesfeld to answer "quare tenuit placitum in Curia Christianitatis de catallis et

"debitis que non sunt de testamento vel matrimonio, contra prohibitionem Regis." According to the latter an action was brought by John atte Newehalle against Robert de Stodeye, parson of the church of Watton atte Stone, and John de Watton atte Stone, chaplain, to answer as to the prosecution of the same plea in Court Christian.

No. 40.

A.D. 1346. Christian a plea touching the cutting of trees and a debt of ten shillings, which did not relate to testament or to matrimony, and which belonged to the jurisdiction of the King.—And the plaintiff sued another writ against the Judge who held the plea, and alleged that a Prohibition had been delivered to him forbidding him to hold it, and that he did not on account thereof stay proceedings.—*Skipwith* said, with regard to one of those who are supposed to have sued, we tell you that he is parson¹ of the church of A.,¹ and within that parsonage he ought to have tithes of all the underwood cut down in his parish ; and we tell you that the place in which he alleges that the wood was cut down is in his parish ; and we say that we sued against him to have our tithes of the underwood cut down by him within our parish, *absque hoc* that we sued any plea touching tall trees, or other trees, or debt; ready by our law.—And

¹ For the names, see p. 301, note 2.

No. 40.

Cristiene plee de couper des arbres et dune dette de A.D. 1346.
 x.s. qe ne touche testament ne matrimoigne, quel
 attient al jurisdiccion le Roi.—Et il suist un autre
 brief vers le Juge qe tint le plee, et qe prohibicion
 luy fut livere qe il mes ne tenist, il pur ceo ne
 lessa, &c.¹—*Skip.* Quant al un de ceux qe sont
 supposes qe suyrent, nous vous dioms qil est persone
 del eglise de A., deinz quele personage il doit aver
 dismes de tut le soutz boys abatu deinz sa paroche;
 [et dioms qe cele lieu ou il assigne le boys
 abatu est deins sa paroche]²; et dioms qe nous
 suymes devers luy pur aver noz dismes de soutz
 boys par luy abatuz deinz sa paroche, saunz ceo qe
 nous suymes plee de haut boys, ou des autres
 arbres, ou de dette; prest par nostre leye.³—Et pur

¹ The plaintiff's declaration against Eggesfelde was, according to the record (B^o 263), "quod cum ipse . . . apud Wattone in prædicto Comitatu (Hertford) citatus fuisset essendo coram præfato Dionisio, tunc Officiali Archidiaconi Huntynghdonie. . . . in ecclesia Omnim Sanctorum de Hertford in eodem Comitatu, ad respondendum Roberto de Stodeye, personæ ecclesiæ de Wattone atte Stone, et Johanni de Wattone atte Stone, capellano, de catallis et debitibus, videlicet de mille grossis queribus, et de quadraginta solidis argenti, per quod idem Johannes atte Newehalle . . . apud Londonias, in ecclesia beatae Mariæ de Arcibus in Warda de Cordewanerestrete, in præsentia Rogeri Hottote, Johannis le Blake Nicholai Hottote, Nicholai de Hau mondsham, et aliorum, liberavit prædicto Dionisio prohibitionem domini Regis, hortando

" ipsum Dionisium ne placitum prædictum ulterius teneret, prædictus Dionisius placitum prædictum de catallis et debitibus prædictis ulterius tenuit contra prohibitionem domini Regis prædictam." The declaration against the other two for prosecuting the plea in Court Christian was, mutatis mutandis, in the same form.

² The words between brackets are omitted from H.

³ The plea on behalf of Robert was "quod ubi prædictus Johannes atte Newehalle superius in narratione sua prædicta supponit ipsum Robertum secutum fuisse placitum in Curia Christianitatis de prædictis grossis arboribus et debito prædicto, quæ non sunt de testamento vel matrimonio, &c., dicit quod ipse est persona ecclesiæ de Wattone atte Stone, infra quam parochiam est quidam boscus, qui vocatur Bardolves wode, ubi dominus de Bardolfe qui est dominus bosci illius vendidit

No. 40.

A.D. 1346. for his companion *Skipwith* said:—He was parochial chaplain of the same church, and, because the plaintiff would not pay the tithes of the said underwood, we caused him to be summoned to answer to the parson and to Holy Church, *absque hoc* that we sued otherwise; ready, &c., by the country.¹—

¹ It will be observed that in the report the parson is made to wage his law, and the chaplain to conclude to the country, whereas it is shown by the record that issue was joined to the country on the parson's plea, and the chaplain waged his law.

No. 40.

son compaignon il dit qil fut chapelleyn parochiel A.D. 1346.
de mesme leglise, et pur ceo qil ne voleit pas
paier les dismes del dit south bois nous luy feismes
somondre a respondre a la personne et a seinte eglise,
saunz ceo qe nous suymes autre; prest, &c., par pays.¹—

<p>“ prædictio Johanni atte Newehalle “ subboscum bosci illiusqui vocatur “ silva cœdua, de qua quidem silva “ cœdua decima debebatur prædicto “ Roberto, et de jure debetur tan- “ quam personæ ecclesiæ de Wat- “ tone atte Stone prædictæ, et quia “ prædictus Johannes atte Newe- “ halle prædictam silvam cœduam “ emit de prædicto domino de “ Bardolfe, et illam venditioni “ exposuit ibidem, et decimam inde “ præfato Roberto tanquam personæ “ solvere recusavit, prædictus “ Robertus, ut in jure ecclesiæ suse “ prædictæ, prædictum Johannem “ atte Newehalle pro prædicta “ decima sibi sic aretro existente “ citari fecit essendi coram “ [erasure], &c., prædictis die et “ loco eidem Roberto super præ- “ missis responsurus, &c., et hoc “ virtute cujusdam brevis domini “ Regis de Consultatione in Can- “ cellaria ipsius domini Regis eidem “ Roberto in Cancellaria sua præ- “ dicta concessi, absque hoc quod “ ipse aliquod placitum in Curia “ Christianiatis de aliquibus grossis “ arboribus seu de aliquo debito “ secutus fuit contra prohibitionem “ domini Regis sicut prædictus “ Johannes atte Newehalle superius “ versus eum narravit.”</p> <p>Issue was joined on this, and the <i>Venire</i> awarded.</p> <p>¹ According to the record, “ Et “ prædictus Johannes de Wattone “ atte Stone dicit quod ipse est “ capellanus parochialis villæ de</p>	<p>“ Wattone atte Stone prædictæ, et “ quod Decanus de Hertford ipsi “ Johanni in virtute obedientiæ “ susæ injunxit ut ipse præfatum “ Johannem atte Newehalle citaret “ ad comparendum coram Archi- “ diacono Huntyngdoniæ vel ejus “ Commissario in ecclesia parochi- “ ali de Hatfelde, prædictis die “ et anno, tam dicto Archidiacono “ ex officio suo quam prædicto “ Roberto in causa decimationis “ silvæ cœduæ prædictæ responsurus, “ et sic dicit ipse quod ipse prædic- “ tum Johannem atte Newehalle “ virtute mandati prædicti sibi sic “ directi in forma prædicta citavit, “ absque hoc quod aliqua prohibitio “ domini Regis ei liberata fuit, seu “ ipse aliquod placitum in Curia “ Christianiatis degrossis arboribus “ prædictis seu de aliquo debito “ quæ non sunt de testamento vel “ matrimonio, &c., secutus fuit “ contra prohibitionem domini “ Regis, sicut prædictus Johannes “ atte Newehalle superius versus “ eum narravit. Et hoc paratus est “ defendere contra ipsum et sectam “ suam sicut Curia Regis hic con- “ sideraverit.</p> <p>“ Ideo consideratum est quod “ vadet ei inde legem suam, se “ xij manu sua, &c. Plegii de lege “ Johannes de Asshwelle senior, et “ Johannes de Asshwelle junior, de “ eodem comitatu. Et veniat cum “ lege sua hic a die Sancti Michaelis “ in tres septimanas in propria “ persona sua, &c.”</p>
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No. 40.

A.D. 1346. *Sadelingstanes.* You see plainly how we have supposed that these two sued the plea in common, and therefore [they should not be permitted] to sever their answer, since our action is taken on their common suit, which ought to be maintained by them in common, and therefore we do not understand that we have any need to answer to such divers issues of the plea.—*WILLOUGHBY.* This is a personal action for which an answer is given to each severally; and, if you will abide judgment there, you must refuse the issues tendered by them; and, therefore, consider.—Therefore *Skipwith* said, with regard to the Judge, that he held a plea touching tithes of underwood cut down, and that, when the Prohibition reached him, he stayed proceedings until the parson sued a Consultation, *absque hoc* that he held any other plea; ready, &c.—*Sadelyngstanes.* You see plainly how we have counted, with regard to one defendant, that he sued a plea touching trees cut down, and with regard to that he has waged his law, as above, as in respect of underwood of which he ought to have tithes, whereas underwood is so annexed to the freehold that wager of law in this case is not admissible; and we demand judgment.—And afterwards he accepted the wager of law, and the other found pledges for waging his law.—And with regard to the other defendant, he accepted the averment, &c.

No. 40.

Sadel. Vous veietz bien coment nous avoms suppose A.D. 1346.
 qe eux ij siwirer le plee en comune, par quei eux
 a severer lour respons, puis qe nostre accion est
 pris de lour comune seute, quel covient estre
 meyntenu par eux en comune, par quei nentendoms
 pas qe a tieles diverses issues de plee eioms mester
 de respondre.—*WILBY.* Ceste une accion personnel
 per quel respons est done de chesqun severalment ;
 et, si vous volez demurer la, il covient qe vous
 refusetz les issues par eux tenduz ; et pur ceo
 avisetz vous.—Par quei, quant al Juge, *Skip.* dit qil
 tient ple des dismes de south bois abatuz, et quant
 prohibicion li vient il sursist tanqe la personne suyst
 une consultacion, saunz ceo qil tient autre ple ;
 prest, &c.¹—*Sadel.* Quant al autre vous veietz bien
 coment nous avoms conte qil suyst ple des arbres
 coupes, et de ceo ad il gage sa ley, *ut supra*, come
 de south boys de quel il deit aver dismes, ou south
 boys est si annex al fraunctenement qe ley en ceo
 cas nest pas receyvable ; et demandoms jugement.—
 Et puis il receut la ley, et lautre trova plegges de
 la ley.—Et al autre il prist laverement, &c.²

¹ The plea on behalf of Dionysius was, according to the record, “quod “ubi prædictus Johannes atte “Newehalle superius in narratione “sua prædicta supponit ipsum “Dionisium tenuisse placitum in “Curia Christianitatis de grossis “arboribus predictis et de debito “prædicto, quæ non sunt de testa-“mento vel matrimonio, &c., nulla “prohibitio domini Regis eidem “Dionisio per præfatum Johannem “liberatum [sic] fuit, nec idem “Dionisius aliquod placitum in “Curia Christianitatis de prædictis “arboribus seu de debito prædicto “tenuit contra prohibitio dom-“ini Regis, sicut idem Johannes “superius versus eum narravit.”

Wager of law was joined on this.
 “Et veniat cum leges sua hic a die
 “Sancti Michaelis in tres septi-“manas in propria persona sua, &c.”
 “Afterwards, on the appearance
 of the parties, on the day given,
 “iidem Robertus et alii dicunt
 “quod prædictus Johannes atte
 “Newehalle ad præsens responderi
 “non debet, quia dicunt quod idem
 “Johannes pro sua manifesta con-“tumacia est notabiliter excom-“municatus. Et profert hic in Curia
 “literas Episcopi Lincolniensii
 “testantes, &c.
 “Et prædictus Johannes non
 “potest hoc dedicere.
 “Ideo prædicta loqua remanet
 “sine die quoisque, &c.”

No. 41.

A.D. 1846. (41.) § A Mort d'Ancestor was brought in the country, and adjourned into the Common Bench on account of difficulty. The tenant¹ pleaded in bar on the ground that he brought his writ of *Cessarit* against one J.¹ and recovered, and that the estate of the plaintiff's ancestor was by the feoffment of the person against whom the writ of *Cessarit* was brought, and while his writ was pending, and so the estate of the plaintiff's ancestor was mesne between the purchase of the writ and the rendering of judgment; and he demanded judgment whether the plaintiff ought to have an assise in respect of that mesne estate.—*Thorpe*. We tell you that, before the judgment was rendered, the same J., against whom the writ of *Cessarit* was brought, enfeoffed our ancestor, and in virtue of that feoffment our ancestor paid to you the arrears, and you received his homage and his fealty. And *Thorpe* produced the tenant's own

¹ For the names, see p. 309, note 3.

No. 41.

(41.)¹ § Mortdauncestre porte en pays, et ajourne A.D. 1346.
 pur difficulte en Baunk. Le tenant pleda en barre Mortdaun-
 par taunt qil porta soun brief de *Cessavit* vers un
 J. et recoveri, et lestat launcestre fut par le feffe-
 ment celi vers qi le brief fut porte, et pendaunt
 soun brief, et issi soun estat² mene entre le brief
 purchace et le jugement rendu; et demanda juge-
 ment si de cel estat mene il dust assise aver.³—
Thorpe. Nous vous dioms qe avant le jugement
 rendu mesme celi J. vers qi le brief fut porte
 enfessa nostre auncestre, par quel feffement nostre
 auncestre paia a vous les arrerages, et vous receustes
 son homage et sa fealte.⁴ Et myst avant son

¹ From H., and L., until other-
 wise stated, but corrected by the
 record, *Placita de Banco*, Easter,
 20 Edw. III., R^o. 217, d. It there
 appears that the Assise was brought
 before Justices of Assise for the
 county of Devon, by John de
 Proutestone against John de
 Killebiry, in respect of one
 messuage, and one ferling and eight
 acres of land in Ermington (Devon)
 of which, as alleged, Richard de
 Proutestone, brother of John de
 Proutestone, was seised in his
 demesne as of fee on the day on
 which he died.

² The words soun estat are
 omitted from H.

³ The plea was, according to the
 record, "Johannes de Killebiry
 "dixit quod tenementa in visu
 "posita non sunt nisi unum
 "mesuagium et unus ferlingus
 "terra tantum, et inde respondit
 "ut tenens, et dixit quod assisa
 "inde inter eos fieri non debuit,
 "dixit enim quod ipse alias in
 "Curia domini Edwardi nuper
 "Regis Angliae, patris domini Regis
 "nunc, anno regni sui

" decimo septimo, tulit versus quen-
 " dam Radulphum Dawe de Pen-
 "coyt, tunc tenentem tenemen-
 " torum prædictorum, quoddam
 " breve Regis quod dicitur *Cessavit*
 " per biennium, cuius quidem brevis
 " data fuit quinto decimo die
 " Octobris eodem anno decimo
 " septimo, super quo brevi processus
 " continuatus fuit usque a die
 " Sancte Trinitatis in xv dies anno
 " regni ejusdem Regis patris, &c.,
 " decimo nono, quo die idem
 " Johannes per judicium Curie
 " ejusdem domini Regis eadem
 " tenementa, cum pertinentiis,
 " recuperavit, et dixit quod status
 " quem prædictus Ricardus, de
 " cuius seisia prædictus Johannes
 " de Proutestone exigebat tene-
 " menta prædicta, fuit medio tem-
 " pore inter datam brevis prædicti
 " de *Cessavit*, &c., et prædictum
 " diem judicii redditum, &c., unde
 " petiit judicium si assisa inter
 " eos in hoc casu fieri debuit,
 " &c."

⁴ H., son foialte, instead of sa
 fealte.

No. 41.

A.D. 1346. deed, which testified the receipt of the homage. And, said *Thorpe*, we demand judgment, since the estate of the plaintiff's ancestor was affirmed by the receipt of the homage, and of the rent, and that is testified by the tenant's own deed, whether by that recovery the tenant can bar the plaintiff from this assise.—*Grene*. And we demand judgment, since he has confessed the estate of his ancestor to have been by the feoffment of the person against whom the writ of *Cessavit* was brought (and that while our writ was pending) whose estate was defeated by the judgment subsequently rendered, and consequently your estate also. And as to your statement that we received your homage, and parcel of the arrears, while our writ was pending, to that the law does not put us to answer, since we have a more recent title by judgment.—*Thorpe*. If you plead against me

No. 41.

fait demene¹ qe tesmoigne la resceite del homage. A.D. 1346.
 [Et demandoms jugement, de puis qe lestat soun auncestre fut afferme par la receite del homage],² et de la rente, et ceo par son fait demene¹ tesmoigne, si par cel recoverir il luy put de cest assise barrer.³
 —*Grene.* Et nous jugement, puis qil ad conu lestat son auncestre estre par le feffement celi vers qi le brief fut porte, et ceo pendant nostre brief, qe estat par le jugement taille subsequent fut defait, et *per consequens* vostre estat auxi.⁴ Et a ceo qe vous parlez qe nous resceumes vostre homage, et parcele des arrerages, pendant nostre brief, a ceo la lei ne nous mette a respondre, puis qe par jugement avoms title de temps plus tard.—*Thorpe.* Si vous pledetz

¹ demene is omitted from I.² The words between brackets are omitted from H.

³ The replication was, according to the record, “Johannes de Proutestone dixit quod, pendente prædicto brevi de *Cessavit*, &c., prædictus Radulphus Dawe de tenementis prædictis feoffavit prædictum Ricardum, de cuius seisinâ, &c., in feodo simplicio, tenendis de capitalibus dominis feodi, &c., qui quidem Ricardus statim post feoffamentum prædictum obtulit prædicto Johanni de Killebiry, de quo tenementa prædicta tenebantur, omnia arreragia redditus, et omnia alia servitia prædicto Johanni de Killebiry debita, et idem Johannes recepit per manus prædicti Ricardi triginta solidos pro arreragis redditus de tempore prædicti Radulphi, et etiam homagium et fidelitatem ejusdem Ricardi pro eisdem tenementis, et protulit ibi scriptum prædicti Johannis de Killebiry quod prædictam receptionem arrera-

“ giorum, et homagii, et fidelitat: testatur in forma prædicta, cuius data est apud Killebiry, die Mercurii in Fæsto Sancti Barnabæ Apostoli, anno regni prædicti Regis patris, &c., decimo nono, unde petiit judicium si ipse, virtute judicij prædicti, contra scriptum illud ipsum ab assisa præcludere possit. Et petiit quod assisa caperetur, &c.”

⁴ The rejoinder was, according to the record, “Johannes de Killebiry dixit quod cum prædictus Johannes de Proutestone non dedixit prædictum Radulphum fuisse tenentem ipsius Johannis de Killebiry de tenementis prædictis, et de eisdem seisinâ fuisse prædicto die impetrationis brevis de *Cessavit*, &c., nec judicium prædictum, nec etiam statum prædicti Ricardi fuisse medium, unde petiit judicium si prædictus Johannes de Proutestone per aliqua per ipsum superius allegata contra judicium illud assisam habere debeat.

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A.D. 1346: an estate mesne between the purchase of the writ and the rendering of judgment, I can say that the defendant himself entered, and enfeoffed me, and so confirm my possession by title from the defendant himself, and that will suffice without having regard to the judgment of a later time; so also in this case, since the receipt of homage and of rent by you from us, which is testified by your deed, and by the tender of which, if we had been parties to the original writ of *Cessarit*, we should have been able to retain the land, therefore that which we could not have pleaded then because we were not a party we can plead now, just as, if you had released your right to me, I should be able to plead that now.—WILLOUGHBY. If he had released to you, the person against whom the original writ of *Cessarit* was brought could have pleaded that in arrest of his action, but neither this receipt of homage nor the receipt of the arrears of rent from you could have been of any avail to him who was then party, nor consequently to you now, since by the subsequent judgment he has a more recent title.—HILLARY expressly denied this.—And they were adjourned.—The conclusion of the report appears hereafter in Trinity Term in the twenty-first year.¹

Mort
d'Ances-
tor.

§ Mort d'Ancestor. There was a plea in bar on the ground that the person who was tenant² brought a writ of *Cessarit* against one A.² and recovered, and that the estate of the plaintiff's ancestor, on whose seisin he claimed, was mesne between the purchase of the writ and the rendering of judgment. To this it was replied, in the country, that the tenant himself who so pleaded had received the services of the plaintiff's ancestor, on whose death, &c., and had

¹ The reference appears to be | editions.
to Y.B., Trin., 21 Edw. III., No. 4, |
fo. 19, as printed in the old | 3.

² For the names, see p. 309, note 3.

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vers moi par estat mene entre le brief purchace et A.D. 1346.
 le jugement rendue, jeo puisse dire qe le demandant
 entra mesme, et moy enfessa, et issi enfermer ma
 possessioune par title del demandant mesme [il suffira
 saunz aver]¹ regarde al jugement de temps
 apres; auxi icy, puis qe vostre resceite de homage²
 et de la rente de nous, quest tesmoigne par vostre
 fait, par tendre de quel, si nous ussoms este partie
 al original, nous purrioms aver retenu la terre, par
 quei ceo qe nous ne purrioms adonqes aver plede
 pur ceo qe nous ne fumes pas partie, nous le
 pledroms a ore, come si vous moi ussetz relesse
 vostre droit jeo le pledray a ore.—WILBY. Sil vous
 ust relesse, celi vers qi l'original fut porte le poait
 aver plede en areste de saccion, mes cele resceite
 de homage³ ne des arrerages fait de vous ne put
 aver valu a celui qe adonqes fut partie, et *per
 consequens* nent a vous a ore, puis qe par le jugement
 apres il ad title de plus tard.—HILL. *negavit hoc
 expresse.*—Et adjornantur.⁴—*Residuum postea xxi.
 termino Trinitatis.*

§ Mortdauncestre.⁵ Plede fuit en barre pur ceo qe celuy quest tenant porta brief de *Cessarit* vers un A. et recoveri, et lestat launcestre de qui seisine, &c., fuit mene entre le brief purchace et jugement rendu. A qai en pays fuit replie qe celuy mesme qe pleda avoit resceu les services soun auncestre, de qui mort,

¹ The words between brackets are omitted from I.

² H., damage, instead of de homage.

³ I., damage, instead of de homage.

⁴ According to the roll the parties were adjourned to Westminster before the same Justices of Assise, and afterwards into the Common Bench. There, after several adjournments, “Visis et

“examinatis recordo et processu
 “supradictis, et auditis hinc inde
 “partium rationibus, consideratum
 “est quod prædicta assisa capiatur,
 “&c. Et sciendum quod recordum
 “inde, una cum brevi originali
 “et panello, remittuntur præfatis
 “Justiciariis ad capiendum assisam
 “prædictam in patria, &c.”
⁵ This report of the case is from L., and C.

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A.D. 1346. received his homage and accepted him as tenant. And the plaintiff alleged that his ancestor was enfeoffed by A.¹ against whom the writ of *Cessavit* was brought at that time, and he demanded judgment and prayed the assise. And upon that they were adjourned into the Common Bench.—*Grene*. You see plainly how we have pleaded that his ancestor's estate was mesne between the bringing of the writ of *Cessavit* and the rendering of judgment, and he does not allege that his right is of earlier date, nor does he deny that which we have surmised against him, and therefore we demand judgment whether an assise, &c.—*Thorpe*. And inasmuch as *Cessavit* does not lie except with regard to payment of services, and in default of a power to distrain, and we, by the feoffment of the person who was your tenant, became your tenant, and you do not deny the receipt of the services by our hand, or that you have received our homage, by which your action by *Cessavit* was extinguished just as much as it would have been by your release, we therefore demand judgment, and pray the assise: for, even though it were law that our ancestor could not have compelled you to receive his services because he purchased while your writ was pending, still, when you of your own free will accepted him as tenant, that acceptance extinguished your action.—*Grene*. You do not deny that A.¹ ceased to render the services, and that so there was an action and a good writ against him, and therefore his conveyance, while the writ was pending against him, was of no avail, nor was the judgment given against him weakened thereby, because by law he, and no one else, is to be adjudged tenant; and if a release had been made (on which point you touched) by a defendant to one who had purchased while the writ was pending, such a release would

¹ For the names see p. 311, note 3.

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&c., et resceu soun homage, et accepte luy come A.D. 1346.
tenant. Et alleggea qe soun auncestre fuit feffe par
A., vers qi le brief fuit porte adonques, et demanda
jugement et pria assise. Et sur ceo adjournes en
Baunk. — *Grene.* Vous veietz bien coment nous
avoms plede qe lestat soun auncestre fuit mene
entre le brief de *Cessarit* porte et jugement rendu,
et il nallege pas soun dreit estre del plus haut,
ne dedit pas ceo qe nous luy avoms surmys, par
qai nous demandoms jugement si assise, &c.—*Thorpe.*
Et desicomme le *Cessarit* ne git pas forqe par noun
de paiement des services, et pur defaute de destresse,
et par le feffement de celuy qe fuit vostre tenant
nous devenimes vostre tenant, et vous ne deditetz
pas la resceite des services par nostre mein, ne qe
vous navetz resceu nostre homage, par quel vostre
accion par le *Cessarit* fuit esteint si avant come
par vostre relees, par qai nous demandoms jugement
et prioms assise; qar, tut fuit ceo lei qe nostre
auncestre vous ust pas chace a resceivre ses services
pur ceo qil purchacea pendant vostre brief, unqore,
quant de gree vous luy resceustes vostre tenant, cel
resceit esteigna vostre accion.—*Grene.* Vous ne
deditez pas qe A. ne cessa, et issint laccion et brief
boun devers luy, par qai sa demise, pendant le brief
vers luy, fuit de nulle value, ne le jugement taille
vers luy enfebly par tant, qar de lei il, et nulle
autre, est ajuge tenant; et si le relees fuit fait,
come vous touchetz, par un demandant a un qavoit
purchacea pendant le brief, a peyn si un tiel relees

No. 42.

A.D. 1346. hardly have availed such a purchaser, because the purchase is by law null with regard to the person who brought his writ, and, even though it were effectual, we are in a better case.—*Thorpe*. If the year and the day had passed, and we were in possession, we should be able to prevent execution on a *Scire facias*.—SHARSHULLE. Hardly. And it is extraordinary that you paid your money to him if you had no security that he would be non-suited.

Cosinage. (42.) § The tenant waged his law as to non-summons, and had a day over, and on that day he was essoined by a common essoin, and had a day over, and on the latter day he was essoined *de malo lecti*, and in the following words:—"J. de A. *languidus*, in Comitatu de R., in villa de S.," against such an one "*de placito terræ*." And because this essoin ought, by common right, to be cast three days before the common day, and it was now cast on the first day as other essoins were, and also because such an essoin lies only on a writ of Right, therefore for those two reasons WILLOUGHBY and HILLARY quashed the essoin, &c.

Essoin. § At the five weeks after Easter [there was an essoin in the words]:—"Johannes qui *languidus est*, apud Beverlacum, in Comitatu Eboraci, versus, &c., per Johannem de Boutelele et Nicholaum de Bererle." And it was cast among the common essoins on the same day as they were. And exception was taken to the essoin on the ground that it ought to have been cast three days at least before that day, and that the writ was one of Aiel, and that such an essoin lies only upon a writ of Right. And there was touched by the COURT the point that it would be necessary to send to four knights to ascertain whether the tenant was sick, and of what sickness, and that within Term-time, and, if he was not sick, to turn this essoin into a default, and, if he was sick, to

No. 42.

vaudreit a un tiel purchaceour, qar le purchace de A.D. 1346.
 lei est nulle eaunt regarde a celuy qad porte soun
 brief, et, tut fuit ceo issint,¹ nous sumes en mellieur
 cas.—*Thorpe*. Si lan et le jour fuit passe, et nous
 fuissoms einz, nous destourberoms execucion al *Scire
 facias*.—SCHAR. A peyn. Et il est merveille qe vous
 paistastes vostre argent a luy si vous nussetz eu
 soerte qil volleit aver este nounsuy.

(42.)² § Le tenant gagea sa ley de nounsomons, *Cosinage*.
 et avoit jour outre, a quel jour il fut essone de [Fitz.,
 comune essone, et avoit jour outre, a quel jour il ^{27.}
 fut essone de malo lecti, et par tiels paroles:—*J. de
 A. languidus, in Comitatu de R., in villa de S.*, vers
 un tiel, *de placito terræ*. Et pur ceo qe ceste essone
 par comune dreit deit estre jettu iij jours avant
 comune jour, et il fut ore jettu al primer come
 autres essones furent, et auxi tiel essone ne gist
 mes en brief de Dreit, par quei par ces deux causes
 WILBY et HILL. quasseren lessone, &c.

§ A³ v. symeignes de Pasche *Johannes qui languidus* *Essone*.
est, apud Beverlacum, in Comitatu Eboraci, versus, &c.,
per Johannem de Boutele et Nicholaum⁴ de Beverle.
 Et fut jettu⁵ mesme le jour entre comunes essones.
 Et lessone est chalenge de ceo qe le dust estre jettu⁶
 iij⁶ jours au meins avant le jour, et qest un brief
 Daiel, et qe tiel essone ne git pas forgen brief de
 Dreit. Et fuit touche par COURT qil coviendreit
 maunder a iiiij chivalers, de veer moun sil fuit⁷
 malade, et de quel malade, et ceo deinz le terme,
 et, sil ne fuit pas malades, tourner ceste essone⁸
 en une defaute, et, si malade, *præfigere diem a die*

¹ issint is omitted from C.

² From H., and I., until otherwise stated.

³ This report of the case is from L., and C.

⁴ C., Johannem.

⁵ C., gettu.

⁶ L., iiiij.

⁷ C., soit.

⁸ C., tourne.

No. 48.

A.D. 1346. appoint a day one year and one day after the day of view, and to allow him to have one such essoin after another on very cause. And, because it was now the end of the Term, the four knights could not, during this Term, have view and make their return thereon.— Afterwards the essoiner waived that essoin, and held to an essoin on the King's service.

Mesne.

(48.) § The mesne brought a writ of Mesne against his lord; and the writ was in common form. And he counted that his tenant below him was distrained by the lord above him, the defendant, for homage and relief to the defendant, and for that reason his tenant brought a writ of Mesne against him, to which he pleaded:—not distrained through his default. And it was found that the tenant had been so distrained, and therefore the tenant recovered against him the acquittal of services, and damages to the amount of ten pounds. Therefore he had many times afterwards come to the defendant, and prayed the defendant to acquit him of the services, and the defendant would not acquit him, &c.—*Moubray*. You see plainly how he has counted that he is distrained through our default because his tenant recovered damages against him by reason of our non-acquittal of services, and he has not counted that the damages were levied of him, nor yet the amercement; judgment.—*Blaykeston*. We have said that he recovered damages against us, and that must be understood to imply execution unless the reverse be pleaded by you.—Therefore *Moubray* prayed that, since the plaintiff's action was maintained by the recovery of damages against him, without which recovery this action could not be maintained, he might have oyer of it.—*WILLOUGHBY*. This is an original writ out of the Chancery, and not one issuing upon a record like a *Scire facias*; therefore you cannot have oyer.—*Grene*. I know well that it is an original writ out of the Chancery,

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*visus in unum annum et unum diem,*¹ et qil avereit A.D. 1346.
 une tiele essone apres une autre sur² verai cause.
 Et, pur ceo qil est en la fine du terme, les iij
 chivalers ceo terme ne purreint pas faire la viewe
 et la retourner.—Puis lessonour weyva cel essone et
 se tient³ a une essone de service le Roi.

(43.)⁴ § Le mene porta brief de Mene vers son *Mene.*
 [Fitz.,
 seignur; et le brief fut comune. Et il counta qe *Mesne*,
 son tenant par devale lui fut destreint par le seignur ^{14.]}
 paramont, le defendant, pur *homage*⁵ et *relief* le
 defendant, par quei le tenant porta brief de Mene
 vers luy, ou il dit qe nent destreint par sa defaute.
 Et trove qe si, par quei il recoveri vers lui
 laquitaunce, et ses damages a x.li. Par quei sovent
 puis il vint a lui, et lui pria qil luy acquitast, il
 luy acquiter ne voleit, &c.—*Moubray*. Vous veietz
 bien coment il ad counte qil est destreynt par nostre
 defaute pur taunt qe son tenant recoveri damages
 vers lui pur nostre nounacquitaunce, et il nad pas
 counte qe les damages furent levetz de lui, ne
 lamerciement nent le pluis; jugement.—*Blaik*. Nous
 avoms dit qil recoveri damages vers nous, quel serra
 entendu execucion si le revers ne soit plede par
 vous.—Par quei *Moubray* pria qe puis qe saccion
 fut maintenu pur le recoverir des damages devers
 luy, saunz quel ceste accion ne put estre maintenu
 qil pout aver de ceo loy.⁶—*WILBY*. Cest un
 original de la Chauncellerie, et noun pas issaunt
 del record come *Scire facias*; par quei, &c.—*Grene*.
 Jeo say bien qe cest un original de la Chauncellerie,

¹ The words *et unum diem* are omitted from L.

² C., et sur.

³ C., tiendrent.

⁴ From H., and I., until otherwise stated.

⁵ H., lomage.

⁶ H., lei.

Nos. 44, 45.

A.D. 1346. which is not warranted by any record, but since he has by his declaration made the recovery the foundation and footing of it, the declaration cannot be admitted without having oyer of the record.—And they were adjourned *in statu quo nunc, salris partibus rationibus, &c.*

Mesne. § A writ of Mesne was brought by the mesne, who had by judgment been charged with the acquittal of services through the default of the person against whom the writ was brought. And the plaintiff counted of the whole matter in accordance with his case.—*Grene* demanded oyer of the record by which the plaintiff was supposed to have been charged.—**STONORE.** For what purpose? You are not a party, and you must know, even without that record, whether he is your tenant, and whether you ought to acquit him, and also whether there has been any default in you.¹

Debt. (44.) § Executors brought a writ of Debt.—*Skipwith.* What have you to show that you are executors?—*Moubray* made *profert* of the obligation of the party himself by which he had bound himself to the plaintiffs as executors.—*Skipwith.* Since you do not produce the will which proves that you were named as executors by the testator, and also that you were admitted by the Ordinary as executors by proving the will, judgment.—*Moubray.* There is no necessity to produce it, since your own deed testifies that we are executors; therefore, &c.

Debt. (45.) § A writ of Debt was brought, and the plaintiff made *profert* of an obligation by which the defendant had bound himself to pay the plaintiff twenty pounds unless he paid ten marks

¹ The case appears to be continued in Y.B., Mich., 20 Edw. III.. No. 92.

Nos. 44, 45.

quel nest pas garranti de nul record, mes quant A.D. 1346.
par sa demoustrance il founde le pee de cele par
le recoverer, la demoustraunce ne poet estre resceu
saunz aver oy del recorde.—*Et adjornantur in statu
quo nunc, salris partibus rationibus, &c.*

§ Mene¹ porte par le mene, qe par jugement fuit Mene.
charge del acquiter en defaut de celuy vers qi le
brief est porte. Et counta tut solonc son cas.—
Grene demanda oy del recorde par quel le plaintif
suppose estre charge.—STON. A quel effecte? Vous
nestes pas partie, et vous devetz saver, tut sanz cel
recorde, sil soit vostre tenant, et si vous luy
acquiterez, et auxint si nulle defaute soit² en vous.

(44.)³ § Executours portent brief de Dette.—*Skip.*⁴ Dette.
Quei avetz qe vous fait executours?—*Moubray* mist
avant lobligacion la partie mesme par quel il savoit
oblige a les plaintifs executours.—*Skip.*⁵ Puis qe
vous ne moustrez pas testament qe prove qe vous
estoiiez nome par le testatour, et auxi qe vous
estoiiez resceu del Ordiner come executours par le
prover de testament, jugement.—*Moubray*. Il ne
covient pas ceo moustrar, puis qe vostre fait
demene tesmoigne qe nous sumes executours; par
quei, &c.

(45.)³ § Brief de Dette porte, et mist avant Dette
obligacion par quel le defendant savoit oblige de
lui paier xx.li. sil ne paie a certeyn jour x. marcs,

¹ This report of the case is from L., and C.
² soit is omitted from L.

³ From H., and I.
⁴ Skip. is omitted from H.
⁵ I., Thorpe.

No. 46.

A.D. 1346. on a certain day, and, because the defendant did not pay the ten marks on the appointed day, an action accrued to the plaintiff to demand the twenty pounds.—*Moubray*. You see plainly how he demands twenty pounds by reason of the non-payment of ten marks, and so it is proved by his suit that what he demands is usury; judgment whether this Court will take cognisance of this matter.—*Grene*. Do you mean that to be your answer?—*Moubray* did not dare to abide judgment thereupon, and said:—The obligation was made to the plaintiff and to another person, and the other is not named in the writ; judgment of the writ.—*Grene*. We say that he is dead; therefore, &c.

Avowry. (46).¹ § One avowed on the ground that the plaintiff held of him by certain services, of which he was seised by the hand of the plaintiff's father, and he avowed for so much in arrear.—

¹ For the commencement or another report of this case, see above, Hilary Term, No. 23, p. 86.

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et, pur ceo qil ne luy paya pas a jour assis¹ les A.D. 1346.
x. marcs, accion a lui² acrust a demander les xx.li.
—*Moubray*. Vous veietz bien coment il demande
xx.li. par cause de noun paiement de x. marcs, et
issi est ceo prove par sa sute qe ceo qil demande
est usure; jugement si ceste Court de ceo voet
conustre.—*Grene*. Voletz ceo pur respons?—Par quei
*Moubray*³ nosa pas demurer, et dit qe lobligacion est
fait al pleintif et a un autre, et lautre nent nome
en le brief; jugement.—*Grene*. Nous dioms qil
est mort; par quei, &c.

(46.)⁴ § Un avowa pur ceo qe le pleintif tint de lui *Avowere*.
par certains services, des queux il fut seisi par my
la meyn son pere, et pur taunt arrere il avowa.⁵—

¹ The words a jour assis are omitted from I.

² The words a lui are omitted from I.

³ H., il.

⁴ From H., and I., but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 228, d. It there appears that the action was brought by William le Olde against John de Compton, knight, and Margery, his wife, and Margery and Margaret, his daughters, and Walter de Harselade, in respect of a taking of four oxen and "unam carucam, cum sex trahitibus."

⁵ The avowry was, according to the record, on behalf of John de Compton and the others, "quod prædictus Willelmus le Olde tenet de eo unum messagium, centum acras terræ, et tres acras prati, cum pertinentiis, in Shorwelle unde prædictus locus in quo, &c., est parcella, per homagium, fidelitatem, et servitium unius denarii per annum ad

"Festum Sancti Michaelissolvendi,
"et faciendi sectam ad curiam
"ipsius Johannis de Comptone de
"tribus septimanis in tres septi-
"manas, de quibus servitiis quidam
"Odo, avus ipsius Johannis, cuius
"heres ipse est, fuit seisisus per
"manus Johannis le Olde, patris
"prædicti Willelmi, cuius heres
"ipse est, ut per manus veri
"tenantis sui. Et de ipso Odone
"descenderunt prædicta servitia
"cuidam Adæ ut filio et heredi, &c.
"Et de ipso Ada descenderunt
"eadem servitia isti Johanni, ut
"filio et heredi, qui nunc advocat,
"&c. Et quia redditus prædictus,
"et prædicta secta per viginti et
"sex annos ante diem captionis
"prædictæ, et etiam fidelitas ipsius
"Willelmi, post mortem prædicti
"patris sui, eidem Johanni de
"Comptone aretro fuerunt, pro
"prædicto redditu cepit ipse præ-
"dictos boves, et pro prædicta
"secta cepit ipse prædictam caru-
"cam et trahitus, &c., in prædicto
"loco, prout ei bene licuit, &c."

No. 46.

A.D. 1346. *Hareryngton.* We tell you that the Countess of Albeinarle,¹ of whom you held, purchased the same land, to hold to her and her heirs, by which purchase your mesne seignory was extinguished; judgment whether, &c.—*Huse.* As to that we tell you that, after that purchase, she gave the land to the plaintiff's ancestor to hold of her by the services for which we have avowed, and that before the statute,² and afterwards the Countess granted the same services to us, by reason of which grant the plaintiff's father attorned, and so the seignory on the ground of which we make avowry commenced at a later time than the purchase which you have alleged; judgment whether, &c.—

¹ See p. 325, note 1.

² (*De Prerogativa Regis*) *Incerti temporis* in Statutes of the Realm;

17 Edw. II. St. I. in Ruffhead's Edition.

No. 46.

Har. Nous vous dioms qe la Countesse Daumarle, A.D. 1346.
 de qi vous tenistes, purchacea mesme la terre, a luy
 et a ses heirs, par quel purchace vostre seignurie
 mene fut esteint; jugement si, &c.¹—*Huse.* A ceo
 vous dioms nous qe, apres cele purchace, ele dona
 la terre al auncestre le pleintif a tenir de lui par
 [services pur queux avoms avowe, et ceo avant
 lestatut, et puis la Countesse graunta mesmes les]²
 services a nous, par quel graunt le pere le pleintif
 attourna, et issi la seignurie pur quele nous fesoms
 lavowere comencea de temps plus tard qe le pur-
 chace qe vous avetz allegge; jugement si, &c.³—

¹ The plea was, according to the record, “ Willelmus dicit quod prædictus Johanne captionem prædictam ratione prædicta super ipsum justam advocare non potest. Et, non cognoscendo quod tenementa prædicta tenentur de præfato Johanne per servitium supradicta, nec quod antecessores ejusdem Johannis unquam seisiserunt de servitio prædictis per manus prædicti Johannis le Olde patris sui, dicit quod quidam Odo de Comptone, abavus prædicti Johannis qui nunc advocat, cuius heres ipse est, fuit seisisitus de prædictis tenementis, cum pertinentiis, in dominico suo ut de feodo, et ea tenuit de quadam Isabella de Fortibus Comitissa Devonie et Domina Insula, quæ ulterius tenuit de domino Rege, &c., qui quidem Odo, diu ante statutum, &c., de tenementis illis feoffavit quandam Matilldem filiam ejusdem Odonis, tenendis sibi et heredibus suis de ipso Odone et heredibus suis, per fideli-tatem, et servitium unius rossæ ad Festum Nativitatis Sancti Johannis Baptistæ annuatim pro

“ omnibus servitiis solvendæ in perpetuum. Et postmodum eadem tenementa devenerunt in manus ejusdam Jacobi de Caverle, qui de eisdem tenementis seisisitus fuit in dominico suo ut de feodo et jure, et inde feoffavit præfata Comitissam quæ fuit domina capitalis, &c., cuius statum idem Willelmus le Olde nunc habet in tenementis illis, virtute cuius feoffamenti præfata Comitissa, quæ fuit capitalis domina in feodo de tenementis illis sic facti servitio prædicti medii, &c., omnino fuerunt extincta, unde petit judicium si prædictus Johannes pro servitiis prædictis, ut præmittitur, sic extinctis, captionem prædictam advocate possit, &c.”

² The words between brackets are omitted from H.

³ The replication was, according to the record, “ Johannes dicit quod, diu ante statutum de Prærogativa Regis, &c., præfata Isabella Comitissa, &c., seista de tenementis prædictis, feoffavit de eisdem quandam Johannem de Mounpalers, tenendis sibi et

No. 46.

A.D. 1346. *Hareryngton.* Whereas you have said that our father attorned, we do not confess the grant, but we say that our father did not attorn to him; ready, &c.—*Huse.* You shall not be admitted to that, since you do not deny the seisin of the services by the hand of your father, which seisin gives attornment.—*Hareryngton.* Then you refuse the averment?—And *Huse* did not dare to do so; therefore he tendered the averment that the plaintiff's father did attorn.—And so to the country.

No. 46.

Har. La ou vous avetz dit qe nostre pere attorna, A.D. 1346.
 nous ne conissons pas le graunt, mes nous dioms
 qe nostre pere nattourna pas a lui, prest, &c.¹—
Huse. A ceo ne serrez resceu, de puis qe vous ne
 dedistes pas la seisme des services par my la meyne
 vostre pere, quele seisme douné lattournement.—*Har.*
 Donqes refusetz laverement.—Et *Huse* nosa pas; par
 quei il tendi daverer qe son pere attorna.—*Et sic*
ad patriam, &c.

“ heredibus suis de ipsa Comitissa
 “ et heredibus suis per servitia
 “ supradicta in advocare suo con-
 “ tenta, qui quidem Johannes
 “ de Mounpalers feoffavit inde
 “ quendam Gregorium le Olde
 “ de Cristchirche Twynham,
 “ qui obiit sine herede de se,
 “ per quod tenements illa
 “ descenderunt cuidam Johanni
 “ le Olde, patri prædicti Willelmi,
 “ ut fratri et heredi, &c., per cuius
 “ manus prædicta Isabella Comi-
 “ tissa seisia fuit de eisdem
 “ servitiis. Et postmodum præfata
 “ Comitissa per scriptum suum,
 “ quod hic profert, et quod hoc
 “ testatur, &c., concessit et con-
 “ firmavit cuidam Odoni de Comp-
 “ tone, avo ipsius Johannis de
 “ Comptone, cuius heres ipse est,
 “ servitia illa tenenda sibi et
 “ heredibus suis in perpetuum, vir-
 “ tute cuius concessionis prædictus
 “ Johannes le Olde se attornavit
 “ inde præfato Odoni, &c. Et de
 “ ipso Odone descenderunt servitia
 “ prædicta cuidam Ada, ut filio et
 “ heredi, &c. Et de ipso Ada
 “ descenderunt eadem servitia isti
 “ Johanni de Comptone, ut filio et
 “ heredi, qui nunc advocat, &c. Et
 “ sic dicit quod dominium accrevit
 “ præfato Odoni de posteriori tem-

“ pore, &c., unde petit judicium
 “ et returnum præditorum
 “ aveniriorum, &c.”

¹ The rejoinder was, according to
 the record, “ Willelmus dicit quod
 “ ubi prædictus Johannes superius
 “ supponit præfatam Comitissam
 “ concessisse servitia supradicta
 “ præfato Odoni, avo, &c., virtute
 “ cuius concessionis asserit præ-
 “ dictum Johannem le Olde, patrem,
 “ &c., attornasse se eidem Odoni
 “ de eisdem serviis, eadem
 “ Isabella feoffavit prædictum
 “ Johannem de Mounpalers de
 “ tenementis prædictis, diu ante
 “ statutum, &c., tenendis de se et
 “ heredibus suis, per servitium unius
 “ denarii tantum pro omnibus
 “ serviis, per quendam chartam
 “ ipsius Comitissæ eidem Johanni
 “ de Mounpalers factam, quam
 “ prædictus Willelmus le Olde hic
 “ profert, &c., et quæ hoc testatur,
 “ &c., absque hoc quod prædictus
 “ Johannes le Olde unquam se
 “ attornavit præfato Odoni de
 “ serviis prædictis sicut prædictus
 “ Johannes de Comptone superius
 “ supponit.”

Issue was joined upon this, and
 the *Venire* awarded, but nothing
 further appears on the roll.

No. 47.

A.D. 1346. (47.) § In Dower the heir of the husband was Dower. vouched in the same county and in several others, and he appeared, and did not ask by what the tenant would bind him to warrant, and he entered into warranty as one who had nothing by descent in fee simple, and rendered dower to the defendant. —*Skipwith*, for the wife, prayed her dower against the tenant on the ground that the heir had been vouched in another county.—HILLARY. You will not have that, for it is possible that the heir has assets in the same county in which the demand is.—Therefore judgment was given that the wife should recover against the heir if he had assets in the same county, and, if not, against the tenant, and that the tenant should recover over.—*Moubray* came, after judgment, and said that, inasmuch as the vouchee entered into warranty without asking by what he could be bound to warrant, it did not matter whether he had assets by descent or not, and therefore the judgment which had been so rendered ought to be amended.—WILLOUGHBY. The judgment is rendered, and for that reason the parties are out of Court, and therefore you have come too late.—*Moubray*. This judgment is not warranted by the roll; and, when you see that your judgment is not warranted by the record, you have power to amend it during this Term.—But the Court would not do so, &c.

Dower. § Constance, late wife of H. Vavasour, brought a writ of Dower. The heir of the husband was vouched in the same county and in others, and entered into warranty as one who had nothing by descent in the same county. And judgment was given that the defendant should recover against the heir, if he had assets in the same county, and, if not, against the tenant, and that the tenant should recover over to the value.—And afterwards, *Moubray*

No. 47.

(47.)¹ § En Dowere leir² le baron fut vouche en A.D. 1346. mesme le counte et en plusours autres, et vient, Dowere. saunz demander par quei il luy voleit lier, et entra [Fitz., Jugement, en la garrantie come celuy qe riens nad par 178.] descente en fee simple, et rendi dowere al demandante.—Skip., par la femme, pria son dowere vers le tenant pur taunt qe leir³ [est vouche en autre counte].—HILL. Vous nel averetz pas, qar il est possible qe le heir]⁴ eit assetz en mesme le counte ou la demande est.—Par quei fut agarde qe la femme recoverast vers leir² sil ust en mesme le counte, et, si noun, vers le tenant, et il outre, &c.—Moubray vint apres jugement, et dit qen taunt qe le vouche entra en garrantie saunz demander par quei il serra lie *quod non refert* le quel il ad par descente ou nient, par quei cel jugement qest issi rendu covent estre redresse.—WILBY. Le jugement est rendu, et par taunt les parties hors de Court, par quei vous estes venu trop tard.—Moubray. Cel jugement nest pas garranti de roulle; et, quant vous veietz qe vostre jugement nest pas garranti par recorde, deins cele terme vous avetz poair⁴ del amendre.—Sed CURIA noluit, &c.

§ Custaunce⁵ qe fuit la femme H. Vavasour porta Dowere. brief de Dowere. Leire le baroun fut vouche en mesme le counte et autres, et entra come celuy qe rienz nad par descente en mesme le counte. Et agarde est qe la demandante recovere vers leire, sil eit en mesme le counte, et, si noun, vers le tenant, et il a la value.—Et puys Moubray alleggea coment

¹ From H., and I., until other-
wise stated.

² I., le heir.

³ The words between brackets are
omitted from H.

⁴ H., powere.

⁵ This report of the case is from
L., and C.

Nos. 48, 49.

A.D. 1346. alleged that the warrant warranted of his own free will, and not in virtue of his ancestor's deed, in which case the judgment should be against the tenant simply, that is to say, that the defendant should recover against the tenant, and the tenant over to the value.—SHARSHULLE. What you say would be true if it had been said in time, but judgment has been rendered.—HILLARY. Yes, judgment has now been given, and it is a good judgment, too, because the vouchee entered into warranty as one who had nothing by descent, and, moreover, it was replied that he had assets by descent, and thereby it was proved that he was vouched and warranted as heir of his ancestor.

Avowry. (48.) § One avowed on the ground that the plaintiff's father held of one J., who granted the same services to the defendant's ancestor in fee tail, in virtue of which grant the plaintiff's father attorned; and the defendant avowed for the rent.—*Haveryngton*. You see plainly how he has avowed in virtue of a grant of services, which falls under the head of a specialty, and of that he produces nothing; judgment whether without a specialty, &c.—WILLOUGHBY. He has supposed that your ancestor attorned in virtue of the grant, and that is sufficient as against you; therefore answer.—*Haveryngton*. Out of his fee; ready, &c.—And the other side said the contrary.

Avowry. (49.) § Thomas de Wycombe,¹ as bailiff of the Prince of Wales, made cognisance of a taking, and that on the ground that the Prince is lord of the honour of Wallingford, within which honour he has a manor of Iver, within which manor he has a court leet as regardant to the honour, &c.; and,

¹ For the real name, see p. 331, note 2.

Nos. 48, 49.

qe le garraunt garrauntist de gree, et noun pas par A.D. 1346.
 fait soun auncestre, en quel cas lagarde serreit vers
 le tenant simplement, saver, qe la demandante
 recovere vers la tenant, et il a la value.—SCHAR.
 Vous ditez verite, si ceo ust este parle par temps,
 mes le jugement est rendu.—HILL. Oyl, ore est le
 jugement fet, et si est il boun, qar il entra en
 garrauntie come celuy qe rienz navoit par descente,
 et auxint fuit replie qil ad assetz par descente, et
 par taunt fuit prove qil fuit vouche et garrauntist
 come heire soun auncestre.

(48.)¹ § Un avowa pur ceo qe le pere le pleintif Avowere.
 tint dun J., qe graunta mesmes les services a son
 auncestre en fee taille, par quel graunt le pere le
 pleintif attourna; et pur la rente il avowa.—Har.
 Vous veiez bien coment il ad avowe par graunt
 des services, qe chiet en especialte, et de ceo ne
 moustre il rienz; jugement si saunz especialte, &c.
 —WILBY. Il ad suppose qe vostre auncestre attourna
 par le graunt, qe suffit vers vous; par quei responez.
 —Har. Hors de son fee; prest, &c.—*Et alii e contra.*

(49.)² § Thomas de Wycombe conust un prise, Avowere.
 come baillif le Prince de Gales, et par la resoun qe
 le Prince est seignur del honour de W., deinz quel
 honour il ad un maner de E., deinz quel maner il
 ad lete come regardant al honour, &c.; et pur ceo

¹ From H., and I.

² From H., and I., but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 252, d. It there appears that the action was

brought by Henry Taillour, of Evere (Iver), against Thomas Gervey, of Wycombe, in respect of a taking of two oxen.

No. 49.

A.D. 1346. because the plaintiff, who is resiant there, brewed contrary to the assise, he was amerced, and the amercement was affeered at four¹ pence, and for that the bailiff made cognisance.—*Sadelyngstanes*. Judgment of the cognisance, for he has said that the Prince is lord of an honour within which the manor is, and he claims a court leet within the manor, and he has not supposed the manor to be holden of the honour; judgment.—And this exception was not allowed.—Therefore *Sadelyngstanes* said that the bailiff could not maintain this cognisance, because he said that King John was seised of the same manor of Iver, and gave it to one J. to hold of him and of his heirs, and afterwards, in the time of King Edward, the grandfather of the present King, one W., tertenant of the land which we hold, and which is parcel of the manor, was distrained by one A., then lord of the honour, for non-appearance at his court leet, which leet the defendant claims as regardant to the said honour, and thereupon the person who was so distrained, and who was tenant of the manor, sued by petition in Parliament, showing how he was the King's tenant, as of his crown, and was distrained by another person for an amercement in the leet, whereupon,

¹ forty, according to the record.

No. 49.

qe le plaintif qest reseaunt, &c., bracea countre A.D. 1346.
 lassise si fut il amercie, et lamercyement affere a
 iiijd., et pur ceo qil conust.¹—*Sadel.* Jugement de
 la conissance, qar il ad parle qil est seignur dun
 honour deinz quel le maner est, et cleyme leté
 deinz le maner, et nad pas suppose le maner estre
 tenu del honour; jugement.—*Et non allocatur.*—Par
 quei *Sadel.* dit qil ne poait pas cele conissaunce
 meintener, qar il dit qe le Roi Johan fut seisi de
 mesme le maner de E., et le dona a un J. a tener
 de luy et de ses heirs, et puis, en temps le Roi E.
 laiel, un W., terre tenant de la terre quel nous
 tenoms, qest parcele del maner, fut destreint par un A.
 adonques seignur del honour par noun venue a sa lete,
 quel lete il cleyme come regardant al dit honour, sur
 quei celuy qe fut issi destreint, et fut tenant del
 maner, suist par peticion en parlement coment il fut
 tenant le Roi come de sa corone, et destreint par autre
 pur amercyement de lete, sur quei, pur ceo qe celi

¹ The cognisance was, according to the record, “ Thomas, . . . ,” “ ut ballivus Edwardi Principis ” Walliae honoris sui de Walyng- ford, cognoscit captionem prædictam, &c., dicit enim quod idem Princeps est dominus Castri et honoris de Walyng- ford, ad quem quidem honorem idem Princeps habet quandam letam spectantem in predicta villa de Evre semel per annum, post diem vocatum Hokeday per rationabilem summonitionem tenendam, ad quam quidem letam omnes infra procinctum villæ de Evre prædictæ residentes per rationabilem summonitionem venire debent, Et dicit quod idem Willelmus [sic] est unus de decennariis villæ de Evre præ-

“ dictæ, et infra procinctum ejusdem villa residens, Et pro eo quod idem Willelmus [sic], ut unus de decennariis villa prædictæ ad præsentandum in eadem leta præsentabilia, prout moris est, per rationabilem summonitionem ei factam, ad quandam letam tentam in predicta villa de Evre die Jovis proxima ante Festum Translationis Sancti Thomæ Martyris anno regni domini Regis nuno Angliæ decimo nono non venit, idem Willelmus [sic] amer- ciatus fuit, et ad quadraginta denarios per pares suos afforatus, Et sic dicit quod ipse prædictis die et anno pro prædictis quadraginta denariis, ut ballivus præfati Principis honoris prædicti cepit prædictos boves.”

No. 49.

A.D. 1846. because a person who was the King's tenant, as of his crown, could not be distrained to attend another person's leet, judgment was given in Parliament¹ that he should be discharged of such attendance. And *Sadelyngstanes* made *profer* of the record, and demanded judgment whether, contrary to that discharge by judgment, the defendant could maintain this cognisance.—And the *Recordari* in this case had been sued in the county of Buckingham, and the petition which was sued in Parliament purported that whereas he held the manor of Iver which is in Berkshire, &c., as above.—*Thorpe*. You see plainly how our object is to charge the manor of Iver which is in the county of Buckingham, in which the writ is brought, and he alleges a judgment to discharge the manor of Iver which was supposed to be in Berkshire, which is a different county, and that judgment cannot refer to the manor which we say is charged; therefore we demand judgment, and pray the return.

¹ The judgment was given in the Court of King's Bench, to which the petition appears to have been referred by the Parliament. See p. 335, notes 2 and 5.

No. 49.

[qe fut tenant le Roi, come de sa corone, ne put estre A.D. 1346.
 destreint a autri lete, fut agarde en parlement qil]¹ fut
 descharge de cele. Et myst avant le recorde, et demanda
 jugement si encountre cel descharger par jugement il
 poet ceste conissaunce meyntener.²—Et cest *Recordari* fut
 suy en le counte de Buckingham, et la peticion qe fut suy
 en parlement voleit qe come il tint le maner de E. qest
 en le counte de Berkes,³ &c., *ut supra*.—*Thorpe*. Vous
 veietz bien coment nous sumes a charger le maner
 de E. qest en le counte de Buckingham, ou le brief
 est porte, et il allegge un jugement de descharger le
 maner de E. qe fut suppose en le counte de Berkes
 qest autre counte, quel jugement ne poet referer a
 cel quel nous dioms estre charge; par quei nous
 demandoms jugement et prioms retourn.⁴—*Moubray*.

¹ The words between brackets are omitted from I.

² According to the record the plea was, "Henricus dicit quod prædictus Thomas, ut ballivus, &c., in jure præfati Principis, captionem prædictam ratione prædicta justam cognoscere non potest, dicit enim quod cum prædictus Thomas in advocare suo prædicto supponit quod cum prædictus Princeps sit dominus honoris de Walyngford, ad quem quidem honorem idem Princeps habet quandam letam spectantem in prædicta villa de Evre semel per annum post diem vocatum Hokeday per rationabilem summonitionem tenendam, idem Thomas ad tale advolare in hac parte manutenendum admitti non debet, quia dicit quod alias in Curia domini Edwardi Regis patris domini Regis nunc [coram Justiciariis omitted] ad placita coram ipso domino Rege tenenda assignatis compertum fuit quod prædictum manerium de Evre, cum pertinentiis, tenetur

" de domino Rege ut de corona sua
 " et non de prædicto honore de
 " Walyngford. Et profert hic in
 " Curia quoddam recordum sub
 " pede sigilli, &c., quod hoc testatur,
 " in hæc verba." Here follows the
 complete record transcribed from the
Placita coram Rege of Easter Term,
 17 Edward II. The plea concludes,
 "Et petit judicium si prædictus
 " Thomas captionem prædictam
 " contra prædictum recordum
 " cognoscere potest in hac parte."
³ I., Buckingham.

⁴ The replication was, according to the record:—"Thomas dicit quod prædictus Henricus queritur captionem prædictam fieri in villa de Evre in Comitatu Buckinghamie, et recordum quod hic profert facit mentionem de quadam villa de Evre in Comitatu Berkescire, unde petit judicium si ad recordum illud respondere tenetur."

[The manor of Evre in Berks is mentioned in the King's Bench record.]

No. 49.

A.D. 1346.—*Moubray.* We are quite agreed that the manor of Iver, which you expect to charge, is in the county of Buckingham, and with regard to that we have said that the same manor was discharged by judgment; and with regard to your statement that the manor which was discharged was supposed to be in another county, and consequently not the same manor, I answer in this way—that what was said in the petition as to the manor being in one county or in another was not at all of the substance of the matter; for even if the name of the county had been omitted the petition would not have been any the worse, and therefore a supposition which is not material does not deprive me of the advantage of discharging the manor now, since I am ready to aver that it is the same manor.—*Grene.* Still a petition in Parliament must be in accordance with proper form in respect of necessary matter just as much as an original writ, because if issue had then been taken, on behalf of the person who made the distress, that the manor was not holden immediately of the King, but was holden of the honour, that question must have been tried, and it could not have been if he had not included in the petition the county in which the question could be tried; therefore this judgment in respect of that manor in that county could not by any possibility discharge tenements in another county.—*Blaykeston.* A manor can well enough extend into divers vills, and into divers counties; and now by our suit we suppose only that the distress was taken in a place in the vill of Iver, which is in the county of Buckingham, and, although it is supposed by the petition that the manor is in another county, yet since it is consistent that the manor may extend into a vill in another county, and that fact is to be understood by the averment which we have tendered,

No. 49.

Nous sumes bien a un qe le maner de E., quel A.D. 1346. vous bietz a charger, est en le counte de Buckingham, et a ceo avoms dit qe mesme le maner fut descharge par jugement; et a ceo qe vous ditez qe le maner qe fut descharge fut suppose en autre counte, et par taunt nent mesme le maner, et a ceo jeo resound en tel manere qe en la peticion ceo qe fut parle qe le maner fut en un counte ou en autre ne fut rienz de la substaunce de la matere; qar mesqe ceo ust este entrelesse la peticion ne ust este de plus pys, par quei tel chose suppose qe nest pas de la matere, ne moy toude pas qe jeo ne le deschargeray a ore, puis qe jeo voille averer qe cest mesme le maner.—*Grene.* Unqore peticion en parlement covent estre auxi formele de chose qest necessarie come original, qar si issue ust este pris adonques pur celuy qe fit la destresse qe le maner ne fut pas tenu del Roi immediate, mes fut tenu del honour, ceste chose covendrait¹ estre trie, et ceo ne put estre sil nust mys en la peticion le counte ou la chose put estre trie; par quei cest jugement de cel maner en cel counte par nulle possibilete put descharger tenementz en autre counte.—*Blaik.* Un maner purra assetz bien esteindre en divers villes et en divers countes; et ore par nostre sute nous ne supposoms mesqe la destresse fut pris en un lieu en la ville de E. qest en le counte de Buckingham, et coment qe par la peticion est suppose qe le maner est en autre counte, puis qil estoit qe le maner purra esteindre en la ville en autre counte, quele chose est a entendre par laverement quel nous avoms tendu daverer, saver qe

¹ I., put.

No. 50.

A.D. 1846 that is to say that what is now in dispute is the same manor that was heretofore discharged on petition, therefore, &c.—SHARSHULLE. It may be as you say, but the Court will not so understand it until it is pleaded by you; but by the manner of your plea the reverse will rather be understood, for you want to aver that this is the same manor that was heretofore supposed to be in another county, and therefore contrary to that which was heretofore supposed.—And the opinion of the COURT was that inasmuch as the manor had been supposed to be in another county, and that was the manor which had been discharged, he could not be admitted to say that what was now in dispute was the same manor, and consequently could not be admitted to discharge it.—Therefore the plaintiff was afterwards nonsuited.

*Quare
impedit.*

(50.) § The King brought a *Quare impedit* against the Abbot of Abingdon, and counted that one John de Ellesfelde was seised of the advowson and presented one Robert de Brightwelle, and that he held the same advowson of the King *in capite*, and that he aliened the same advowson without license, wherefore our Lord the King seised the advowson, and so it belongs to the King to present.—*Pole*. We do not admit that John held the advowson of the King, nor that he aliened, but we say that Robert was not admitted on his presentation; ready, &c.—*Thorpe*. You see plainly how the title of our Lord the King is the matter which gives him right, and that is that John was seised of the advowson and aliened in mortmain, and that is the title supposed for giving the King the presentation, without having regard to the question whether John presented or not, and that title is not denied by him; therefore

No. 50.

ceo qest ore en debat est mesme le maner qe A.D. 1346.
 autrefoitz par peticion fut descharge, par quei, &c.—
 SCHARS. Il put estre come vous parles, mes Court
 nel entendra pas tanqe il soit plede par vous; mes
 par la manere de vostre ple le revers serra plus
 tost entendu, qar vous voillez averer qe cest mesme
 le maner qe fut autrefoitz suppose en autre counte,
 et a taunt a contrarie de ceo qe autrefoitz fut
 suppose.—Et opinion de COURT fut qe par taunt qe
 le maner fut suppose en autre counte, et cel
 descharge, qil ne poait estre resceu a dire qe ceo
 dount le debat est a ore fust mesme le maner, et
per consequens nient resceu del descharger.—Par quei
 apres le pleintif fut nounsuy, &c.¹

(50).² § Le Roi porta *Quare impedit* vers Labbe *Quare impedit.*
 de Abyndone, et counta qun J.³ fut seisi del avoweson [Fitz.,
 et presenta un R.⁴, le quel tint mesme lavowesoun *Quare impedit,*
 del Roi en chief, le quel J.³ aliena mesme lavoweson 61.]
 saunz conge, par quei nostre seignur le Roi seisist
 lavowesoun, et issi appent, &c.—[Pole. Nous ne
 conissons pas qe J.³ tint lavowesoun del Roi, ne qil
 aliena, mes nous dioms qe R.⁴ ne fut pas resceu a
 son presentement; prest, &c.]⁵—Thorpe. Vous veietz
 bien coment le title nostre seignur le Roi est la
 chose qe lui doun dreit, et cest qe J.³ fut seisi del
 avowesoun et aliena en morte meyn, quel est suppose
 title a doner le Roi presentement, saunz aver regard
 le quel qil presenta ou noun, quel chose nest pas

¹ So on the roll, “Prædictus
 “Henricus non est prosecutus. Ideo
 “ipse et plegii sui de proseguendo
 “in misericordia, &c. Quærantur
 “nomina plegiorum, &c. Et præ-
 “dictus Thomas habeat returnum
 “prædictorum averiorum, &c. Et
 “Henricus inde sine die, &c.”

² From H., and I. The report is
 in continuation of Y.B., Mich., 19
 Edw. III., No. 77 (pp. 464-467), and

of Y.B., Hil., 20 Edw. III., No. 33
 (above pp. 108-115). The record
 (already cited) is *Placita de Banco*,
 Mich., 19 Edw. III. R^o 539. The
 presentation in dispute was to the
 church of Farnborough (Berks).

³ MSS. of Y.B., W.

⁴ MSS. of Y.B., J.

⁵ The words between brackets are
 omitted from I.

No. 50.

A.D. 1346. we demand judgment for the King, and we pray a writ to the Bishop.—SHARSHULLE. This is a writ touching right, but mixed with the question of possession, and I tell you plainly that we shall never uphold it without an allegation of possession by presentation. And as to your statement that an answer must be given to the title which gives the King a right, without having regard to possession, it is not so in this action; for if the King now fails with regard to the presentation mentioned in his count, he will on another day take another presentation, and so there will be no damage to him; therefore, &c.—*Thorpe*. Sir, on the matter shown the King could not have any writ of Right of Advowson, because he could not count of the seisin of any one on which an action is given to him, and therefore this is his writ of Right; and the title which gives a right to the King to have the advowson, that is to say, that John was seised of the advowson and aliened it, is not denied. And as to his statement that, on this writ, the presentation is traversable without answering to the King's right, see from what I have to say that it is not so:—for suppose that King Richard, who lived before time of memory, had presented the last parson, and we had counted of that presentation, the Court would not have listened to us, because the presentation was alleged to have been before time of memory, and in that case it would have been necessary for us to feign a presentation on behalf of the King, on which issue could not be taken without answering as to the right which the King has.—SHARSHULLE. Neither *Quare impedit* nor *Jurata utrum* is limited as other writs are; therefore you might very well count of a presentation before time of memory.—*Thorpe*. A writ of Right of Advowson is limited; therefore a *Quare impedit*, which is of an inferior nature, is

No. 50.

dedit de luy ; par quei nous demandoms jugement A.D. 1346.
pur le Roi, et prioms brief al Evesqe.—SCHARS.
Cest un brief de dreit mixt en la possession, et
jeo vous die bien qe nous le meytendroms jammes
saunz possession allegger par presentement. Et a
ceo qe vous dites qe al title qe doune al Roi
dreit homme respondra, saunz aver regarde a la
possession, il nest pas issi en ceste accion ; qar si
le Roi faille de son presentement en son counte a
ore, il prendra autre jour un autre presentement,
et issi nul damage ; par quei, &c.—Thorpe. Sire,
sur la matere moustre le Roi ne poet nul brief de
Dreit davowesoun aver, pur ceo qe il ne put
counter de nuli seisine de qi accion lui est done,
et par taunt cest son brief de Dreit ; et le title qe
doun dreit al Roi daver lavowesoun, saver, qil fut
seisi del avowesoun et aliena, nest pas dedit. Et a
ceo qil dit qe le presentement en cest brief est
traversable saunz respondre al dreit le Roi, veietz
ci qe noun :—qar jeo pose qe le Roi Richard, qe
fut avaunt temps de memore, presenta la drein
personne, et nous ussoms counte de cel presentement,
la Court ne nous orreit pas, pur ceo qil fut allegge
devant temps de memore, en quel cas il nous
covensist feindre un presentement pur le Roi, sur
quel issue ne put estre pris saunz respondre al
dreit qe le Roi ad.—SCHARS. *Quare impedit* ne
Jure de utrum ne sount pas limites come les autres
briefs sount ; par quei vous averetz bien a counter
dun presentement avant temps de memore.—Thorpe.
Un brief de Dreit davowesoun est limite ; ergo par
resoun le *Quare impedit*, qest de meyndre nature, est

No. 51.

A.D. 1346. limited ; and, moreover, if a presentation before time of memory be admitted for title, for the same reason if it were traversed, the question would be tried by jury. The consequence is false, because that which is before time of memory does not fall within the knowledge of any one.—And it was said in this plea that on a writ of Right for the King the half-mark will not be tendered for the time, because a party will not join the mise against him, but the verdict of a jury will be taken in lieu of that of the Grand Assise.—And note also that one cannot have final judgment against the King, because there is no land in England to which he has not in some way a right.—And this was pleaded in the last term, and now the record was read, and it purported that, after the King had replied to the answer as above, the Abbot said that John never had anything in the advowson (ready, &c.), but said that Robert was presented by his predecessor and not by John.—*Thorpe*. Now we demand judgment, because he waived the first answer, and gave another, as appears above, and now he has waived that other, and has returned to his first answer, to do which he ought not to be admitted ; and we pray a writ to the Bishop.—*Derworthy*. Because it appeared to the Court that we could not have the second answer we waived it and returned to the first ; and we demand judgment whether we shall not be admitted to the first plea.—And they were adjourned, &c.

Waste. (51.) § Peter de Handlo¹ brought a writ of Waste against one J.,¹ and supposed that he held of the plaintiff for term of life by the assignment of one A.,¹ who made a lease to the aforesaid J.¹ for the same term, and that the reversion was granted to B.¹ for the whole of his life, with remainder after B.'s death to Peter and his heirs; and he counted in accordance with the writ.¹—

¹ For the real names, and for the declaration, as it appears on the roll, see p. 343, notes 4 and 5. The names and the facts are confused in the report.

No. 51.

limite ; et auxi si homme resceive presentement avant A.D. 1346. temps de memore pur title, par mesme la resoun, si ceo fut traverse, homme lenquerra. *C'consequens falsum,* qar il ne chiet pas en conissaunce de homme.—Et fut dit en ceo ple qen brief de Dreit pur le Roi homme ne tendra pas demi marc pur le temps, pur ceo qe partie ne joindra pas myse vers luy, mes enqueste serra pris en lieu de graunde assise.—Et *sic nota,* homme navera pas jugement final vers le Roy, pur ceo [Fitz., qil ny ad nulle terre en Engletere qil nad *quodam modo Jugement.* 232.] dreit.—Et ceo fut plede lautre terme, et ore le recordre fut lieu, qe voleit qe apres qe le Roi avoit rejoint a cel respons *ut supra*, qe Labbe dit qe J.¹ navoit unques riens en lavowesoun, prest, &c., mes dit qe R. fut presente par son predecessor et ne mye par J.²—*Thorpe.* Ore demandoms jugement, puis qil weyva le primer respons, et dona un autre, *ut patet*, quel autre il ad a ore weyve, et est retourne a son primer respons, a quei il ne deit avener; et prioms brief al Evesqe.—*Der.* Pur ceo qil sembla a la Court qe nous ne purrioms aver le secunde respons, nous le weyvames et retournames al primer; et demandoms jugement si al primer plee nous ne serroms mie resceu.—*Et adjornantur, &c.*³

(51.)⁴ § Piers de Hanlo porta brief de Wast vers Wast. un J., et supposa qe il tint a terme de vie del pleintif del assignement un A., qe cele al avant dit J. lessa a mesme le terme de ceo en fist a un B. a tote sa vie, et apres soun deces le remeindre a Piers et as ses heirs ; et counta accordant, &c.⁵—

¹ H., W.; I., le Roi.

² MSS. of Y.B., W.

³ The report is continued in Y.B., Mich., 20 Edw. III., No. 74. For the conclusion of the record see Y.B., Easter to Mich., 19 Edw. III., p. 467, note 1.

⁴ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw.

III , R^o. 241. It there appears that the action was brought by Nicholas son of John de Handlo against William de Gravale, in respect of waste in gardens in Acton Burnel, which he held for the life of Thomas Oseberne.

⁵ The count or declaration was, according to the record, “quod, “cum quidam Johannes de Handlo

No. 51.

A.D. 1346. *Mutlow.* You see plainly how he supposes the reversion to have been granted to B. for his life, and the remainder to Peter who now sues, which B. is still living; judgment whether, while B. is living, you ought to maintain this writ.—*Grene.* And we demand judgment, since the inheritance belongs to us, and this action cannot be maintained by B. by reason of the feebleness of his estate, and it is not an intendment of law that this waste should be committed with impunity; therefore we demand judgment, &c.—WILLOUGHBY to *Mutlow.* Consider the matter carefully, for, although you take the exception to the writ, we hold it to be to the action, and as such we shall adjudge it to be.—*Mutlow.* In God's name adjudge it in accordance with that which you see ought to be done.—And they were adjourned.

Waste. § *Mutlow* took exception to the writ on the ground

No. 51.

Mutl. Vous veietz bien coment il suppose la rever- A.D. 1346.
 sion estre graunte a B. a sa vie, et le remeindre a
 Piers qore suist, le quel B. est en pleyne vie;
 jugement si, vivant B., devetz ceste brief meintener.¹
—Grene. Et nous jugement puis lenheritaunce est
 a nous, et ceste accion ne poet estre meyntenu par
 B. pur la feblesse de son estat, et ley ne voet pas
 qe ceste wast soit despuny; par quei nous demandoms
 jugement, &c.—*WILBY* a *Mutl.* Avisetz vous bien,
 qar, coment qe vous donetz le chalange al brief, nous
 le tenoms al accion, et pur tiel nous lajggeroms.—
Mutl. Ajuggetz le de part Dieux come vous veietz
 qe soit affaire.—*Et adjornantur*, &c.²

§ *Mutl.*³ challengea le brief⁴ de ceo qest suppose *Wast.*

“ fuisset seisitus de uno mesuagio
 “ et duobus gardinis, cum per-
 “ tinentiis, in Acton Burnel, qui
 “ quidem Johannes tenementa illa
 “ dimisisset præfato Willelmo ad
 “ totam vitam ipsius Thomæ, et
 “ postea prædictus Johannes con-
 “ cessisset reversionem eorundem
 “ tenementorum, quæ ad ipsum
 “ Johannem post mortem ejusdem
 “ Thomæ reverti deberent, cuidam
 “ Galfrido de Scardeburghe et
 “ heredibus ipsius Galfridi, virtute
 “ cuius concessionis prædictus
 “ Willelmus se attornavit eidem
 “ Galfrido, qui quidem Galfridus
 “ postea concessisset reversionem
 “ prædictorum tenementorum præ-
 “ fato Johanni de Handlo ad vitam
 “ ipsius Johannis, ita quod post
 “ ejus mortem tenementa illa
 “ eidem Nicholao et heredibus suis
 “ remanerent, virtute cuius con-
 “ cessionis prædictus Willelmus
 “ eidem Johanni se attornavit, &c.,
 “ idem Willelmus fecit vastum,
 “ venditionem, et destructionem
 “ in prædictis tenementis, vide-
 “ licet prosternendo et vendendo

“ ducentas pirus, pretii cujuslibet
 “ decem et octo denariorum, tres-
 “ centa pomaria, pretii cujuslibet
 “ duodecim denariorum, ad exhore-
 “ dationem, ipsius Nicholai, &c.”

¹ The plea was, according to the record, “ Willelmus . . . dicit
 “ quod, ubi prædictus Nicholaus per
 “ breve suum supponit quod præ-
 “ dictus Galfridus concessit rever-
 “ sionem prædictorum tenemen-
 “ torum prædicto Johanni ad totam
 “ vitam suam, et quod post ejus
 “ mortem eadem tenementa præ-
 “ dicto Nicholao et heredibus suis
 “ remanere deberent, idem Johannes
 “ superstes est, et in plena vita
 “ Et petit judicium si prædictus
 “ Nicholaus, vivente prædicto
 “ Johanne, actionem super isto
 “ brevi de vasto habere debeat, &c.”

² An adjournment appears on the roll, but nothing further.

³ This report of the case is from L., and C. It is there preceded by what appears to be a very inaccurate copy of the original writ.

⁴ The words le brief are omitted from C.

No. 52.

A.D. 1346. that it supposed a person other than the defendant to have a mesne estate in the reversion for his life, and that person was not supposed to be dead either by writ or by count.—The exception was not allowed, because neither the writ nor the count ought to be in such form as to suppose his death.—*Mutlow* then alleged that John de Handlo was still living, and said that he did not understand that, while John was alive, the plaintiff ought to be answered with respect to this writ.—*Thorpe*. That is to our action, and we understand that a mesne estate in the reversion, and particularly when that is only of a freehold, does not oust us from this action, and we demand judgment on the point, and we pray, since you do not deny the facts, that you be convicted of the waste. And further we tell you that the right was limited to us as above by fine.—*Mutlow*. If it appears to you that he ought in this case to be answered with respect to such a writ, we are ready to answer.—*WILLOUGHBY*. We take your answer to be to the action, and so it shall be entered, &c.

Covenant. (52.) § One J.,¹ as one of the heirs of one B.,¹ brought a writ of Covenant against R.,¹ and counted that the manor of R.,¹ which is partible, descended from one A.¹ to R.,¹ the defendant, and to B.¹ the father of J.,¹ who brought the writ, as to two sons, and that they made partition of the manor between them, in such a manner that R., in consideration of his purparty, agreed to pay the services for the whole manor to the chief lord for ever, and to acquit the heirs of B. And he said that he was one of the heirs of B. And he said that from B. a moiety of this manor, with other tenements descended to the plaintiff and his brother, because

¹ For the real names, see p. 347, note 2, and p. 349, note 1.

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qautre ad estat mene en la reversion pur sa vie, A.D. 1346.
 et cel par brief ne count nest pas suppose mort.—
Non allocatur, qar le brief ne serra pas de tiele
 fourmie de supposer sa mort, ne le counte.—*Mutl.*
 alleggea donques qe J. est en pleine vie, et dit qil
 nentendist pas qe, vivant luy, a ceo brief devereit il
 estre respondu.—*Thorpe.* Cest a nostre accion, et
 nous entendoms qe mene estat en la reversion, et
 nomement de fraunctement, ne nous ouste pas de
 ceste accion, et de ceo demandoms jugement, et
 prioms,¹ del houre qe vous ne deditetz pas, qe vous
 soietz atteint. Et outre vous dioms qe par fine si
 fuit le dreit taille a nous, *ut supra.*—*Mutl.* Sil
 vous semble qe a tiel brief il serra el cas respondu,
 prest sumes, &c.—*Wilby.* Nous pernoms vostre
 respouns al accion, et issint serra entre, &c.

(52.)² § Un J., come un des heirs un B., porta *Covenant*.
 brief de *Covenant* vers R., et counta qe le maner
 de R., qest departable, descendri dun A. a R.,
 defendant, et a B. pere J. qe porte le brief, come a
 deux fitz, les queux departirent le maner entre eux,
 issi qe R., pur sa purpartie, graunta de paier les
 services pur tut le maner a chief seignur a toux
 jours, et dacquiter les heirs B. Et dit qe il fut un
 des heirs B. Et dit qe de B. la moite de cel
 maner, od autres tenementz, descendri al plentif et

¹The words et prioms are omitted from L.

² From H., and I., until otherwise stated, but corrected* by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o. 306. It there appears that the action was brought

by Peter de Filethe (who appeared by guardian) against Robert de Filethe in respect of a covenant made between John son of John de Filethe, Peter's father, one of whose heirs Peter was, and Robert.

No. 52.

A.D. 1346. these lands are partible. And he said that a moiety of the manor in respect of which the covenant was made was allotted entirely to him, and therefore he prayed the defendant to acquit him alone in accordance with the covenant, and that the defendant would not do so, and still will not. And he made *profert* of the deed which purported that the defendant had agreed to acquit B. and his heirs.—*Moubray*. Judgment of the writ¹:

¹ It will be observed that this plea in abatement of the writ is followed (p. 351, *Skipwith*) by one in abatement of the count or declaration. This is contrary to the course, which had already become usual, in accordance with which the plea in abatement of the declaration

preceded that in abatement of the writ. In the passage on p. 351, it is true, the reading in one of the MSS. is *brief*, and not *counte*, but as the word *demonstrance* occurs later in both MSS. in relation to the same matter (p. 353) the plea could hardly have been to the writ.

No. 52.

soun frere pur ceo qils sount departables. Et dit qe la A.D. 1346.
 moyte de maner de quei le covenant se fist fut allote
 enterement a luy, par quei il luy pria qe il luy acquitast
 soulement solom le covenant, il ceo faire ne voleit, ne
 unquore ne voet. Et myst avant le fait qe voleit qil
 savoit graunte dacquierer B. et ses heirs.¹—*Moubray.*

¹ The declaration was, according to the record, " quod, cum, die Veneris proxima ante dominicam in Ramis Palmarum anno regni domini Regis nunc quinto, apud Filethe, super partitione inter praedictos Johannem filium Johannis et Robertum filium et heredem praedicti Johannis patris, &c., facienda de omnibus terris, et tenementis, quae eis descenderunt post mortem ipsius Johannis patris, &c., quae sunt de tenura de Gavelkynde, et partibilia inter heredes masculos, &c., convenisset, et per quoddam scriptum indentatum inde inter eos confectum amicabilis divisio ordinata fuisset et facta, videlicet quod totum manerium de Filethe, cum omnibus pertinentiis, redditibus, et aliis juribus suis ad manerium illud spectantibus, excepto molendino de Filethe cum stagno, et exceptis quibusdam peciis terre et prati, &c., . . . assignatum fuit pro parti praedicti Roberti. Et molendinum illud, et alia tenementa praedicta excepta, &c., et etiam quadam domus in Tenterdene, et integre totum tenementum quod eis hereditarie accidit post mortem praedicti Johannis patris, &c., in Denum de Blechind Crotind Stepherst halle et Bogind, cum juribus et pertinentiis suis, assignata fuerunt proprii praedicti Johannis filii Johannis, ita

" quod praedictus Robertus et heredes sui sive assignati, &c., dominis totius integrum tenementum de Filethe omnia servitia annualiter debita et consueta ficerent et redderent, et de servitis illis praedictum Johannem heredes et assignatos suos acquietarent, ita, videlicet quod si contingenteret quod redditus ad praedictum manerium de Filethe pertinens et proveniens ad defensionem totius integrum tenementum de Filethe sufficere non posset, tunc praedictus Johannes et heredes sui annuatim solverent praedicto Roberto et heredibus suis portionem suam, videlicet, tantum quantum pertinet ad acram de illo temento quod recepit ad suam portionem de tenemento de Filethe usque ad perimplendum totam defensionem totius tementi praedicti. Et praedictus Johannes et heredes vel assignati sui facerent et redderent pro praedictis domo in Tenterdene et aliis tenementis praedictis in Denum de Blechind Crotind Stepherst halle et Bogind capitalibus dominis feodi, &c., servitia inde debita et consueta, quod quidem manerium praedictum integre, exceptis sex acris terre in quadam pecia quae vocatur Chelyntanesfeld, et septem acris terre in quadam alia pecia vocata Northstantye, tenetur de Archiepiscopo Can-

No. 52.

A.D. 1346. for you see plainly how it is supposed by his writ that R. ought to acquit the heirs of B., whereas by the specialty the acquitting is granted as much to B. as to his heirs, and so the writ is not warranted by the specialty; judgment of the writ.—*Grene.* Our action is taken for the heir, and therefore it is sufficient to count that the acquitting relates to him, and, if it were to be recited in the writ that he agreed to acquit B. and his heirs, that would be to suppose that B. was still living, and on that account our action would not be maintainable; therefore it suffices to show, on behalf of the person who makes use of the action, that the liability to acquit was acknowledged as affecting him.—*Skipwith.* Again, judgment of the count: for he has supposed that we ought to acquit him by reason of the covenant, and that we have not done so, and he does not show that he has suffered

“ tuariensi per servitium redditus “ triginta duorum solidorum et sex “ denariorum et oboli per annum, “ et faciendi quasdam custumas “ videlicet Wodegavel, Swyngavel, “ et Somerhous, seu pro illis cus- “ tumis sex solidos decem denarios “ et obolum per annum, ad “ voluntatem domini, &c., et sol- “ vendi quatuordecim gallinas et “ dimidiam, vel duos solidos et “ quinque denarios ad voluntatem “ &c., centum et quadraginta et “ quatuor ova, vel septem denarios “ quadrantem per annum, ad “ voluntatem, &c., et faciendi servi- “ tium metendi quinque acres terre “ quinque Daywerkes de terra “ metenda secundum consuetu- “ dinem patriæ, vel sex solidos et “ octo denarios per annum ad “ voluntatem, &c., arandi tres acres “ unam rodam et septem Daywerkes	“ arruræ terræ, vel quinque solidos “ duos denarios per annum, ad “ voluntatem, &c., et faciendi tres- “ decim averagia ad manerium “ prædicti Archiepiscopi de Cher- “ ryngge, si Archiepiscopus per tot “ vices ibidem per annum venerit, “ seu pro quolibet averagio quatuor “ denarios, ad voluntatem, &c. Et, “ si tam sœpe ibidem non venerit, “ ad quemlibet adventum avera- “ gium, &c., seu quatuor denarios, “ ad voluntatem, &c., et si sœpius “ ibidem venerit nihilominus de “ tresdecim averagiis, seu pro “ averagio quatuor denariorū “ tantum, erit contentus. Et præ- “ dictæ sex acreæ terræ tenentur de “ Johanne de Broscombe per servi- “ tium redditus sexdecim denari- “ orum per annum et duarum “ gallinarum, vel pro gallinis “ quatuor denariorū, ad volun-
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No. 52.

Jugement du brief: qar vous veietz bien coment A.D. 1346.
 par soun brief est suppose qe il dust acquiter les
 heirs B., ou par lespecialte lacquitaunce est graunte
 taunt avant a B. come a ses heirs, issi le brief
 nent garranti del especialte; jugement du brief.—
 [Grene. Nostre accion est pris pur leir, par quei a
 lui suffist a counter qe lacquitaunce refiert, et, si
 homme recitast en le brief]¹ qil se graunta dacquier
 B. et ses heirs, ceo serreit a supposer qe B. fut en
 vie, et par taunt nostre accion nent meintenable;
 par quei pur celui qe use laccion suffist a moustrer
 qe lacquitaunce fut conu a luy.—Skip. Unquore
 jugement du counte²: qar il ad suppose qe nous lui
 duissons acquiter par covenant, et qe nous nel
 avoms pas fait, et il ne moustre mye qe il est

" tatem domini, &c. Et septem " acria terrae praedictae tenentur de " Thoma de Rokesle per servitium " duodecim denariorum per annum, " quae quidem servitia de integro " praedicti manerii de Filethe debita " praedicta Robertus integre fecit " capitalibus dominis, &c., tota " vita praedicti Johannis patris, &c., " et ipsum inde acquietavit eo quod " redditus manerii praedicti de " Filethe ad propartem praedicti " Roberti remanens virtute con- " ventionis praedictae exedit servitia " capitalibus dominis debita, post " mortem eius Johannis patris, &c., " praedicta tenementa in praedicto " manerio superius excepta, simul " cum aliis terris et tenementis qua- " non sunt parcella dicti manerii " de Filethe, descenderunt praे- " dicto Petro et cuidam Johanni " fratri suo, ut filiis et heredibus, " secundum modum tenuræ de " Gavelkynde, &c., et inter eos " partita fuerunt, ita quod praे- " dictum molendinum et alia tene-	" menta praedicta in praedicto " manerio superius excepta " assignata fuerunt propriae pre- " dicti Petri, et alia tenementa pro- " parti praedicti Johannis fratris, " &c., post eujus assignationem " praedictus Robertus fecit et soluit " capitalibus dominis servitia, &c., " et ipsum inde acquietavit usque " octo annis jam elapsis ante diem " impetrationis brevis quod pra- " dictus Robertus servitia praedicta " facere non curavit, et licet saepius " requisitus, &c., conventionem " praedictam tenere contradicit, " unde dicit quod deterioratus est, " et damnum habet ad valentiam " centum librarum. Et inde producit " sectam, &c. Et profert hic in " Curia quandam partem praedicti " scripti indentati inter praedictos " Robertum et Johannem filium " Johannis, quod præmissa, " testatur, &c."
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¹ The words between brackets are omitted from I.

² I., brief.

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A.D. 1346. any damage by distress made upon him for the rent, and this suit cannot be given unless he can show that he has suffered damage ; wherefore, &c.—*Grene*. We think that, since the covenant is that you are to acquit us, and we have surmised against you that you have not done so, and that so you are proceeding contrary to the covenant, therefore if you understand that, if we have not suffered damage by distress, we shall not have this suit, that goes to the whole matter, and you can abide judgment thereon at your peril ; and we demand judgment whether this action is not sufficiently maintainable for us without showing any further matter.—*Skipwith*. And we understand that the suit is never maintained unless by reason of the damage which has befallen the plaintiff ; and, since you do not show such damage, judgment ; and, if the Court considers that the declaration is good, we are ready to answer.—*HILLARY*. The covenant is not conditional on your being distrained for default of acquittal of services, but is simply that you have to acquit him, and he has surmised that you have not done that ; therefore it seems that he has met you sufficiently ; therefore answer.—*Moubray*. Again, judgment of the writ : for he brings this writ as one of the heirs of B., and thereby it is supposed that there are other heirs living ; and by the covenant itself it is supposed that it was made to the ancestor to acquit him and his heirs, and therefore this suit is given to those who are heirs, and one is omitted as the writ supposes ; judgment.—*Grene*. This covenant is that he is to acquit the ancestor and his heirs of the services due for the whole of the tenements which are allotted for our purparty, and that is supposed in our count ; therefore it falls to us alone to sue this suit ; therefore, &c.—And for that cause the writ was adjudged good.—*Skipwith*. We

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endamage par destresse fait sur lui pur la rente, A.D. 1346.
 et ceste sute ne poet estre done sil ne puisse
 moustrer qil est endamage; par quei, &c.—*Grene*.
 Nous quidoms qe puis qe le covenant est qe vous
 nous deveretz acquiter, et nous vous avoms sourmis
 qe vous nel avetz pas fait, et par taunt vous aletz
 encountre covenant, par quei si vous entendetz qe
 si nous ne soioms endamage par destresse qe nous
 naveroms pas ceste sute, ceo est a tut, et la poetz
 demurer a perille qe appent; et demandoms¹ juge-
 ment si ceste accion pur nous saunz plus de matere
 surmettre ne soit assetz meintenable.—*Skip*. Et
 nous entendoms qe sute nest jammes meyntenu
 forqe pur damage qe acrestreit a luy; et, puis qe
 vous ne moustrez pas cel, jugement; et si avis soit
 a la Court qe la demoustrance est bon, prest a
 respondre.—*HILL*. Le covenant nest pas si vous
 soietz destreint par defaute de sacquitance, [mes est
 simplement qe vous lui devetz acquiter],² et ceo ad
 il surmys qe vous navietz pas fait; par quei il
 semble qil vous ad assetz servy; par quei responez.—
Moubray. Unquore jugement du brief: qar il porte
 ceo brief come un des heirs B., et en taunt est
 suppose qil y ad autres des heirs en vie; et par
 ceste covenant est suppose fait al auncestre dacquiter
 lui et ses heirs, et par taunt ceste sute done a
 ceux qe sont heirs, et un est entrelesse come le
 brief suppose; jugement.—*Grene*. Cest covenant est
 qil acquitera launcestre et ses heirs des services
 dues des tenementz queux sont trestouz allotes a
 nostre purpartie, et cest suppose en nostre counte;
 par quei a nous soul chiet ceste sute a suyr; par
 quei, &c.—Et par cele cause le brief fut agarde

¹ H., demander.² The words between brackets
are omitted from I.

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A.D. 1346. tell you that you ought not to have an action: for we tell you that the tenements, of which you desire to deraign the acquittal by this covenant, are in gavelkind, and there is a custom in gavelkind lands that when an infant has passed the age of fifteen years he can aliene his land, and, in this case, after the infant had passed the age of fifteen years he aliened the land to one J.,¹ and took back an estate to himself and to his wife, and so the plaintiff is joint tenant of this land with his wife, and we demand judgment whether for a default in not acquitting the services of this land he can maintain this writ.—*Grene*. And we demand judgment since the plaintiff appears in Court by guardian, and it is thereby of record that he is still under age, and the defendant has confessed that we are now seised of the land, which cannot be any other than that which we had for our purparty, as we had it before, and moreover this action is not annexed to the land but to the person, and therefore a conveyance of the land does not oust us from this action.—*Skipwith*. It seems that it does oust you: for of common right this action on a covenant made

¹ For the real name, see p. 355, note 1

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bon.—*Skip.* Nous vous dioms qe vous ne devetz A.D. 1346.
 accion aver: qar nous vous dioms qe les tenementz
 des queux par cel covenant vous biez deresner
 lacquitaunce sont en Gavilkynde, et il y ad un tiele
 usage illoeques qe quant un enfant est passe lage de
 xv. aunz qil purra aliener sa terre, et apres qe le
 pleintif fut passe lage de xv. aunz il aliena la terre
 a un J. et reprise estat a luy et a sa femme, et
 issi est le pleintif joyntenant de ceste terre od sa
 femme, et demandoms jugement si pur defaute de
 nounacquitance des services de ceste terre il puisse
 ceo brief meyntener.¹—*Grene.* Et nous demandoms
 jugement puis qe le pleintif est icy par gardeyn, et
 par taunt est de recorde qe il est unquore deinz
 age, et il ad conu qe nous sumes seisi a ore de la
 terre, quel ne poet estre autre mes pur la purpartie
 come nous lavioms avant, et auxi ceste accion nest
 pas annexe a la terre mes a la personne, par quei
 demise de la terre ne nous ouste pas de ceste
 accion.²—*Skip.* Il semble qe si; qar de comune

¹ Robert's plea was, according to the record, "non cognoscendo quod manerium prædictum tenetur de Archiepiscopo et aliis dominis prædictis per servitia prædicta, dicit quod usagia sunt in Comitatu prædicto quod heredes tenentur quæ sunt de tenura de Gavelkynde, cum ad ætatem quindecim annorum pervenerint, vendere possunt et alienare tene- menta sua in perpetuum duratura, et dicit quod prædictus Petrus qui modo queritur, postquam ad ætatem quindecim annorum pervenerat, alienavit tenementa prædicta quæ sunt parcella manerii prædicti et ad propartem suam assignata, cuidam Willelmo Eyt, et ab eodem Willelmo statum de eisdem tenementis

" recepit sibi et cuidam Alicia
 " uxori sua, et sic dicit quod ipse
 " modo tenet tenementa prædicta
 " conjunctim cum ipsa Alicia uxore
 " sua, per perquisitionem, &c., et
 " petit judicium si idem Petrus
 " modo ut heres, &c., actionem
 " conventionis prædictæ habere
 " debeat, &c."

² Peter's replication was, according to the record, "non cognoscendo usagia Kantiæ, &c., scilicet quod heredes Gavelkynde ad ætatem suam quindecim annorum alienare possunt, &c., nec aliquam alienationem de tenementis prædictis unde, &c., fore factam, dicit quod ex quo prædictus Robertus non dedit prædictum scriptum ad quod ipsem fuit pars esse factum suum, nec conventionem

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A.D. 1846. to the ancestor and his heirs is given to the eldest son, and cannot be maintained for the younger son except with regard to the purparty, and the seisin of this land to which the covenant extends; therefore, if the possession that you have as heir be changed, this action cannot be maintained for you.—WILLOUGHBY. If, when he was under age, he had released the covenant to you, that would not bar him; no more will the conveyance of the land and the taking back of an estate during his non-age deprive him of this action; and moreover this covenant is binding rather on the person than on the tenancy; therefore since you have confessed that he is tenant, and his wife cannot maintain this action with him, it seems that it is maintainable for him.—And they were adjourned.

Covenant § R.¹ brought a writ of Covenant against J.¹ on the ground that J. did not keep the covenant made between the said J. and W.¹ the father of R.,¹ one of whose heirs R. is, to acquit and defend W., himself, and the heirs of W. with regard to the chief lords, in respect of the services of the manor of B.¹ And he counted that on partition made between J. and W., because the inheritance is by custom partible between males, an agreement was made, and that by specialty, of which *profert* was made, to the above effect. And he showed how that manor, with the exception of a certain exception, was allotted to W. And he counted that the services were in arrear, and the defendant had not paid the chief lord, &c., and how by partition this manor was allotted to the plaintiff, &c.—Moubray. First he has counted that the defendant tortiously fails to keep the covenant made between J. and W. that W. should acquit the heirs of J., and then he has declared

¹ As to the names, see p. 347, note 2, and p. 349, note 1.

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dreit ceste accion de covenant faite al auncestre et A.D. 1346.
 ses heirs est done al fitz eisne, et pur le puisne ne
 poet estre meintenu mes pur la purpartie, et la seisine
 de ceste terre a quei le covenant sestent; par quei, si
 cele possessioun qe vous avetz come heir soit chaunge,
 ceste¹ accion ne poet estre meyntenu pur vous.—
 WILBY. Sil deinz age vous ust relesse le covenant,
 ceo ne luy forclorra pas; nent plus la demyse de la
 terre ne la reprise duraunt son noun age ne luy
 toudra pas ceste accion; et auxi cele covenant relie
 plus a la personne qe al tenance; par quei puis qe
 vous avez conu qil est tenant, et sa femme ove luy
 ne poet meyntener ceste accion, par quei il semble
 qil est meyntenable pur luy.—Et sont ajournez, &c.²

§ R.³ porta brief de Covenant vers J. de ceo qil ne Covenant.
 luy tient covenant fait entre le dit J. et W. pere R.
 qun des heirs R. est, dacquiter et defendre vers les
 chiefs seigneurs luy mesme et ses heirs⁴ des
 services del maner de B., countant qe, sur purpartie
 fet entre J. et W., pur ceo qe leritage par usage est
 departable entre madles, acorde se prist, et ceo par
 especialte, quel fuit moustre, *ut supra*. Et moustra
 coment cel maner, forpris certeine forprise, fuit allote
 a W. Et counta coment les services furent arere, et
 il navoit pas paye au chief seignur, &c., et coment par⁵
 purpartie cel maner⁶ allote al pleintif, &c.—Moubray.
 Primes il ad counte qatort ne luy tient pas covenant
 fait entre J. et W., de ceo qe W. acquitereit les heirs

“ prædictam, neque dicit quod ipse
 “ prædictum Petrum de servitiis
 “ prædictis acquietavit, nec potest
 “ dedicere ipsum Petrum adhuc esse
 “ infra æstatem, cuius non ætas per
 “ recordum hic in Curia probatur
 “ pro eo quod custodem fecit in
 “ placito prædicto versus ipsum
 “ Robertum, unde petit judicium et
 “ damna sibi adjudicari, &c.”

¹ MSS. of Y.B., par ceste.

² There were several adjournments, but nothing further appears on the roll.

³ This report of the case is from L., and C.

⁴ C., les heirs H., instead of ses heirs.

⁵ L., cel.

⁶ The words cel maner are omitted from L.

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A.D. 1346 the covenant to be that it was covenanted that J. should acquit W. and his heirs, and so that is not pursuant.—*Grene*. J. cannot now acquit any others than the heirs of W., because W. is dead, and the writ is, and ought to be, to the effect that he is to acquit those who can now be acquitted; and afterwards it is shown in the count in what words the covenant was made; therefore it is right.—And afterwards *Moubray* was put to answer over.—*Moubray*. He has not shown that he was distrained by the chief lord, by which he would suffer damage.—This exception was not allowed, which was extraordinary.—*Moubray*. We tell you that, by the custom of gavelkind, after an infant has passed the age of fifteen years, he can alienate land as a man of full age, and we tell you that the plaintiff aliened, after he was of the age of fifteen years, the same manor to one T.,¹ to hold to T. and his heirs, and took back an estate in fee tail to himself and his wife, of which estate they are seised; and we demand judgment whether he can, as heir, make use of this action.—*Grene*. And you see plainly how the plaintiff appears by guardian, and is under age, and the defendant does not deny the deed of his ancestor nor that he has failed to perform the services; and we pray our damages.—*Skipwith*. If he demanded alone as heir, he would never be answered without the co-heirs, for otherwise whosoever might be the eldest son would have this action; but now, because the manor is allotted to him, according to a custom, as to one of the heirs of his father, that is the reason why he will have the action; that, however, we have destroyed by our plea that he cannot claim as heir because he holds by purchase jointly with his wife.—*WILLOUGHBY*. His wife cannot make use of this action, and you have confessed that he is seised

¹ As to the name, see p. 355, note 1.

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J., et puis desclarra le covenant qil acovenit qe J. A.D. 1346. acquitereit W. et ses heirs, issint nient pursuaunt.—*Grene*. J. ne poet ore acquiter autres qe les heirs W., qar W. est mort, et cel est le brief, et deit estre dacquiter ceux qe pount estre a ore acquites ; et apres est il moustre en le count en quelles paroles le covenant se fit ; par qai il est bien.—Et puis fuit mys outre.—*Moubray*. Il nad pas moustre qil soit destreint par chief seignur, par qai il serreit endamage.—*Non allocatur, quod mirum fuit*.—*Moubray*. Nous vous dioms qe, par usage de Gavilkynd, aprés ceo qe lenfant soit¹ passe lage de xv. aunz, il poet aliener come homme de plein age, et vous dioms qe le plaintif aliena, apres ceo qil fuit del age de xv. aunz, mesme le maner a un T., a luy et a ses heirs, et reprisest estat a luy et a sa femme de feetaille, de quel estat ils sount seisi ; et demandoms jugement si come heire ceste accion purra user.—*Grene*. Et vous veietz bien coment le plaintif est par gardein, et est deinz age, et il ne dedit pas le fait soun auncestre, ne qil nad pas fait les services ; et prioms nos damages.—*Skip*. Sil demanda soulement com heire, il ne serra jammes respondu saunz les coheirs, ou autrement qe fuit eigne fitz avereit cele accion ; mes ore, pur ceo qe, par usage, le maner est alote a luy come a un des heirs soun pere, cest la cause pur qai il avera laccion ; donques avoms destruit cella par nostre plee qil ne poet com heire clamer pur ceo qe par purchace ils tenent joint ove sa femme.—*Wilby*. Sa femme ne poet user accion, et vous avietz conu qil est seisi del

¹ L., fuit.

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A.D. 1346. of the manor, and is one of the heirs, and have confessed the deed of your ancestor by which you are bound. What reason then remains why you should not be charged, &c.? — And they were adjourned.

Suit to a mill. (53.) § An Abbot¹ sued a writ of suit to a mill.¹ The defendant after appearance made default. The Grand Distress was awarded in lieu of the Petit *Cape*. And now the defendant made default a second time. And judgment was given that the Abbot should recover, but that execution should be stayed until enquiry had been made as to collusion.

Quod permittat. § The Prior of Haverholme heretofore brought a *Quod permittat* in respect of suit to a mill on a title by prescription, which title was traversed. And afterwards, on another day, the defendant made default, and he was now distrained to hear his judgment, and did not appear. Therefore judgment was given that he should recover the suit and his damages. And there issued a writ to the Sheriff to cause a jury to come to tax the damages, and also to enquire as to collusion.

Fine. (54.) § A writ of Dower was brought by a man and his wife against a man and his wife, and the demand was made for a third part of a manor. And upon this a fine was admitted to the effect that the husband and his wife who were demandants granted and released whatsoever they could have as of the dower of the wife to the tenants for ever, and for that grant and release the husband and the wife who were tenants granted five marks of rent to the other husband and his wife, to have for the life of the wife, with a clause of distress for the same rent in the third part aforesaid. And, because it cannot be known which parcel in particular will

¹ See the other report of the case below, and note 2, p. 361.

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maner, et un des heirs, et le fait vostre auncestre, A.D. 1346.
par quel vous estes lie. Qai¹ remeint donqes pur
qai vous ne serretz charge, &c.—*Et adjournantur.*

(53.)² § Un Abbe suist brief de suite de molyn. *Suite de molyn.*
Le defendant apres apparaunce fit defaute. La grand destresse agarde en lieu de petit *Cape*. Et ore il fait autrefoitz defaute. Et fut agarde qe Labbe recoverast, mes qe execucion cessast tanqe enquis fust de la collusion, &c.

§ Le³ Prior de Haverholme autrefoith porta *Quod Quod permittat* de suite de molyn sur title de prescripcion, quel title fuit traverse. Et puis a autre jour le defendant fit defaute, et ore est destreint doier soun jugement, et ne vint pas. Par qai fuit agarde qil recoverast la suite, et ses damages. Et comaunde est de faire venir pays pur taxer les damages, et auxint pur enquere de la collusioun.

(54.)⁴ § Un brief de Dowere fut porte par un *Finis.* homme et sa femme vers un homme et sa femme, [Fitz., Fynes, et la demande fut faite de la terce partie dun 72.] maner. Et sur ceo fyn resceu en tiele manere qe le baron et sa femme demandants granterent et relesserent quantqe ils aver purroint come de dowere la femme a les tenantz a touz jours, et pur cele graunt et relesse le baron et la femme tenantz granterent v. marcز de rente al autre baron et sa femme, a aver a la vie la femme, et de destreindre pur mesme la rente en la terce partie avantdite. Et, pur ceo qe homme ne poet savoir quel parcelle en

¹ C., Qar.

² From H., and I., until otherwise stated. The other report below shows that the plaintiff was not an Abbot, but the Prior of Haverholme, and it is probable that this is a continuation of the case Y.B., Mich. 19 Edw. III., No. 28 (pp. 356-359), in which the Prior of

Haverholme brought a *quod permittat villanos facere sectam ad molendinum* against David son of David de Fletwyke, knight.

³ This report of the case is from L., and C.

⁴ From H., and I., until otherwise stated.

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A.D. 1346 be charged with the distress by the description of a third part, he was put to charge the whole manor with the distress. And in that form the fine was admitted as well with regard to the rent as with regard to the land.

Fine § A fine on a writ of Dower, that is to say, by license to agree after the demand had been for a third part of a manor. The husband and his wife granted and released all their claim in the third part, as the wife's dower, to another husband and his wife, and for that release the others granted back to the demandants, for the life of the wife who was defendant, twenty shillings of rent, to be taken from the whole of the manor, at certain terms, with a clause of distress. And the wives were examined, &c.

Quare non admisit. (55.) § The King brought a *Quare non admisit* against the Archbishop of York on the ground that the Archbishop would not admit the King's clerk to the sub-deanery in the church of St. Peter of York; and he showed how he had judgment in *Quare impedit* for himself.—*Richemunde.* We tell you that

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certain serra charge de la destresse, par noun de A.D. 1346.
terce partie, il fut mis de charger le maner enter
de la destresse. *Et ita recipitur* auxi bien de rente
come de la terre, &c.

§ *Finis*¹ sur brief de Dowere, saver, par conge *Finis.*
dacorder apres la demande fait de la terce partie
du maner. Le baroun et sa femme granterunt et²
relesserunt tut lour cleyme en la terce partie, come
de dowere la femme, a au autre homme et sa
femme, et pur cel relees les autres regraunterent³ a
les demandantz, pur la vie la femme demandante,
xxs. de rente a prendre de tut le maner, as certainz
termes, ov clause de destresse. Et les femmes
examinetz, &c.

(55.)⁴ § Le Roi porta *Quare non admisit* vers *Quare non admisit.*
Lercevesqe Deverwyke pur quei il ne voleit resceivere [Fitz.,
son clerk al soutz Deane de B.; et moustra coment Trial,
il avoit jugement pur luy, &c.⁵—Richem. Nous vous 67.]

¹ This report of the case is from L., and C.

² The words granterunt et are omitted from I.

³ L., granterent.

⁴ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 292. It there appears that the action was brought by the King against William, Archbishop of York, in respect of a presentation "ad subdecanatum in ecclesia "beati Petri Eboraci."

⁵ According to the record, the declaration was "quod, cum idem dominus Rex alias in Curia hic . . . tulit quoddam breve de Quare impedit versus prefatum Archiepiscopum de subdecanatu predicto, super quo brevi idem Archiepiscopus placitavit cum domino Rege, et posuit se in

"juratam patriæ, et, continuato "inde processu quoisque idem "dominus Rex, per juratam præ- "dictam coram Willelmo Basset "uno justiciariorum ejusdem "domini Regis ad placita coram "ipso Rege tenenda assignatorum " . . . apud Eboracum "captam, præsentationem suam ad "subdecanatum prædictum per "considerationem Curie Regis "recuperaverit, per quod idem "Rex mandavit præfato Archiepis- "copo, per breve suum de judicio, "quod, non obstante reclamatione "ejusdem Archiepiscopi, ad præ- "sentationem Regis ad subdecan- "atum prædictum idoneam per- "sonam, videlicet, Willelum de "Wetewange, clericum per ipsum "Regem ad eundem præsentatum, "admitteret, quod quidem breve "liberatum fuit eidem Archi-

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A.D. 1346. there are two churches appropriated to the sub-deanery, and that the sub-dean is governor of the minor canons and choristers in the absence of the dean, and so this is a benefice with a cure. And we tell you that the person whom the King presented to us was a layman, and was unacquainted with letters; and we do not understand that by reason of the refusal to admit him contempt can be assigned in our person; and, if the King were pleased to present another person who was fit, we should be ready to admit him.—*Grene*. As to that, we tell you that the presentee is a clerk, and not a layman; ready, &c.; and we pray that you cause him to come before you to be examined whether it be so or not.—*Richemunde*. And we pray that you send to the Metropolitan a precept to certify you as to this matter.—*HILLARY*. Neither the one nor the other; but we shall enquire by a jury, for the whole dispute now falls into the question whether the presentee was lay or clerk at the time of the refusal to admit him, and not at the present time, since it is possible that the Archbishop may be excused; for it is possible that the presentee was at that time a layman, and that he is now a clerk; and,

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dioms qe deux eglises sount appropries al soutz A.D. 1346.
 Deane, et qil est governour de petit Chanouns et
 queristrers en absence del Deane, issi est cel
 benefice curable. Et vous dioms qe celuy qe le
 Roi nous presenta fut lays, et ne savoit pas de
 letterure; et nentendoms pas par le refuser de luy
 il puisse contempt en nous assigner; et si plest al
 Roi de presenter autre personne convenable, prest a
 resceivere le.¹—*Grene*. A ceo vous dioms nous qil
 est clerk, et nent lays; prest, &c.²; et prioms qe
 vous luy facez venir devant vous destre examine le
 quel il soit issi ou noun.—*Richem*. Et nous prioms
 qe vous maundez al Metropolitan de vous certifier
 de cele.—*HILL*. *Neque sic, neque sic*; mes nous
 lenquerroms par pays, qar tut le debat chiet a ore
 le quel al temps del refuser il fut lays ou clerk,
 et ne mye a temps qore est, la ou Lercevesqe purra
 estre excuse; qar il est possible qe adonques il fut
 lays, et a ore qe il soit clerk; et, si nous luy

“ episcopo apud Cawod ex parte
 “ domini Regis
 “ idem Archiepiscopus præfatum
 “ Willelmum ad subdecanatum
 “ prædictum admittere recusavit ”
 1 The plea was, according to the
 record, “ quod subdecanatus præ-
 dictus est quoddam beneficium
 curatum, ad quod beneficium
 diversæ ecclesiæ curate sunt
 spectantes, et subdecanus qui pro
 tempore fuerit debet regulare
 parvos canonicos, vicarios, et
 choristarios in ecclesia prædicta,
 ac capitulum ibidem, tempore quo
 Decanus ejusdem ecclesiæ absens
 fuerit, Et dicit quod, ubi dominus
 Rex asserit ipsum præsentasse
 eidem Archiepiscopo idoneam
 personam ad subdiaconatum
 prædictum, videlicet, præfatum
 Willelmum de Wetewange, cleri-
 cum, &c., idem Willelmus

“ inhabilis est ad tale beneficium
 “ obtinendum eo quod illiteratus
 “ est. Et hoc paratus est verificare.
 “ Et dicit quod si dominus Rex
 “ idoneam personam ei præ-
 sentasset, &c., ipse Archiepis-
 copus personam idoneam ad
 subdiaconatum illum admisisset
 “ &c., unde dicit quod ipse non
 “ intendit quod dominus Rex
 “ injuriam seu contemptum in
 “ personam ipsius Archiepiscopi
 “ assignare possit, &c.”
 2 According to the record, the
 replication was “ quod prædictus
 “ Willelmus, quem dominus Rex
 “ præfato Archiepiscopo præsen-
 “ tavit ad subdecanatum prædic-
 “ tum, &c., habili fuit, et est idonea
 “ persona, et sufficienter literatus.
 “ Et hoc paratus est verificare pro
 “ domino Rege per patriam.”

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A.D. 1346. if we examine him, the examination will have reference only to the present time, whereas the Archbishop may possibly be excused for his refusal by reason of the disability then in the presentee's person.—Therefore the issue was to be tried by a jury, and a writ was sent to the Sheriff to cause a jury to come.—And on the morrow WILLOUGHBY said that the question whether the presentee was clerk or layman did not fall within the knowledge of the country, and (said he) we must send to the Dean and Chapter to certify us as to the fact.—*Greene*. The question whether he was then literate or not falls well enough within the knowledge of the country, because it does not lie in examination; for, if he be dead, the King's action still remains for the contempt done to the King, and yet he will never be examined; therefore it is more in accordance with reason, if you desire that he be examined, that you cause him to come before you to be examined on behalf of the King than that you be certified with regard to the matter by those who are subject to the Archbishop.—HILLARY. If the Archbishop brings a writ against me on the seisin of his ancestor, and I say that he is a bastard, will not a precept be sent to himself to certify us, since he has no Metropolitan as a Bishop has? And so also it seems in this case.—*Thorpe*. The cases are not alike, because in that case, when he demands on the seisin of his ancestor, he does not demand as in respect of anything which is of the right of his Arch-bishopric, as he represents divers estates in it; but in this case the suit is made against him as Ordinary and officer of the King, and therefore since he represents only one degree in this case, one will not send to him to certify with regard to that degree which he represents in the suit; nor consequently will one send to the Dean and Chapter, who are his

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examinoms, ceo referra mes a temps qore est, la A.D. 1346.
ou Lercevesqe purra estre excuse del refuser par la
nounablete adonques en luy.—Par quei lissue fut trie
par pays, et brief maunde al Vicounte, &c.—Et
lendemeyn WILBY. dit qil ne chiet pas en conis-
saunce de pays le quel il fut clerk ou lays, il
covient qe nous maundoins al Dean et Chapitre del
nous certifier.—*Grene.* Il chiet assetz bien en conis-
saunce de pays le quel il fut lettre adonques ou
nient, qar en examinement ne gist il pas ; qar, sil
soit mort, unqore demoert laccion le Roi pur le
contempt a luy fait, et jammes ne serra il examine ;
par quei il est plus de resoun qe si vous voilletz
qil soit examine qe vous luy facetz vener devant
vous destre examine pur le Roi qe destre certifie
de cele de ceux qe sount sugettez al Ercevesqe.—
HILL. Si Lercevesqe porte un brief vers moy de la
seisine son auncestre, et jeo die qil est bastarde, ne
serra il maunde a luy mesmes de nous certifier,
puis qil nad pas mestrepolitan come Evesqe ad.
Et auxi semble il en ceo cas.—*Thorpe.* Il nest pas
semblable, qar en ceo cas qil demande de la seisine
son auncestre il demande mye come chose qest del
dreit de sa Ercevesche, issi qil represente divers estatz
en cele ; mes en ceo cas la sute est faite vers luy come
Ordiner et ministre le Roi, par quei puis qil repre-
sente mes un degree en ceo cas en cele degree qil
represente en la sute homme ne maundera pas a li de
certifier ; *nec per consequens* al Dean et Chapitre, ge

No. 55.

A.D. 1346. subordinates.—And the COURT desired to consider this.—And they were adjourned.

Quare non admisit § The King brought a *Quare non admisit* against the Archbishop of York with regard to the sub-deanery in the church of St. Peter of York, and counted that he had refused to admit the King's presentee.—*Richemunde* alleged that the sub-deanery was a benefice to which two churches belonged, and that the sub-dean represented the dean in his absence for the purpose of visitations, and that the person whom the King presented to such a benefice was non-able, and illiterate, and for that reason the Archbishop refused to admit him. And (said *Richemunde*) we demand judgment whether tort can be assigned. And he said that whenever the King would present a person without disability the Archbishop would be ready to admit him.—*Thorpe*. He was a clerk and literate; ready, &c.—And the other side said the contrary.—Afterwards there was discussed by the COURT the question to whom the

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sount desoutz lui. — Et sur ceo la Court se voleit A.D. 1346.
aviser.—*Et adjornantur*,¹ &c.

§ Le² Roi porta *Quare non admisit* vers Lercevesqe *Quare non admisit*
Deverwyke, &c., a la South Deane en leglise Seint
Piere Deverwyke, et counta qil avoit refuse soun
presente.—*Rich.* alleggea qe la South Deane est
benefice de deux eglises, et represent le Dean³ en
sabsence en visitaciouns, et celuy qe le Roi presenta
est persone noun able, et nient lettre, a tel benefice,
par qai il luy refusa. Et demandoms jugement si
tort, &c. Et dit qe quele heure qe le Roi voet
presenter persone able prest serreit de luy receiver.
—*Thorpe.* Il fuit clerke et lettre; prest, &c.—*Et
alii e contra.*—Apres fuit parle par la COURT a qui

¹ After the replication, the roll continues:—“ Et quia non dum
“ visum est Curiae utrum prædicta
“ verificatio sit trianda per patriam,
“ vel cui sit demandanda ad
“ inquirendum, &c., in præmissis,
“ pro eo quod prædictus Archi-
“ episcopus versus quem, &c., est
“ Metropolitanus loci prædicti,
“ datus est dies,” &c.

A large number of other adjournments follow, after the last of which, in Easter Term, 23 Edward III., “venit prædictus Archiepiscopus per prædictum attornatum suum. Et dominus Rex mandavit hic literas suas patentes in hæc verba:—Edwardus, Dei gratia Rex Angliæ et Franciæ, et dominus Hiberniæ, omnibus ad quos præsentes literæ pervenerint salutem. Scatis quod dedimus et concessimus dilecto clero nostro Johanni de Pyrie sub-decanatum in ecclesia beati Petri Eboraci vacantem, et ad nostram donationem spectantem ratione temporalium Archiepiscopatus

“ Eboracensis vacantis et in manu
“ nostra existentia, habendum cum
“ suis juribus et pertinentiis
“ quibuscumque, et omnimas
“ collationes per nos inde tam
“ Magistro Andreæ de Offord quam
“ aliis quibuscumque factas tenore
“ præsentium duimus revocandas.
Dated 12 Ap. 23 Edw. III.)

“ Et super hoc prædictus
“ Johannes de Pyrie præsens hic
“ in Curia petit breve pro domino
“ Rege prædicto Archiepiscopo de
“ executione facienda, &c. Et ei
“ conceditur, &c. Et quia prædictus
“ Archiepiscopus nondum admisit,
“ &c., ideo datus est dies tam præ-
“ dicto Johanni qui sequitur, &c.,
“ quam prædicto Archiepiscopo
“ per attornatum suum hic in
“ Octabis Sancti Michaelis in statu
“ quo nunc, &c.”

Then follow many more adjournments, but no result is shown.

² This report of the case is from L., and C.

³ C., lestat le Dean.

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A.D. 1346. precept should be sent in this case, since the matter should be tried by Court Christian.—And the COURT was of opinion, because the Metropolitan was himself a party, that it should be sent to the Dean and Chapter of York.—*Thorpe*. We pray that our averment be accepted, for the question of ability ought to be tried by a jury, having regard to the time of the presentation, for, even though the presentee were now dead, the Ordinary would still be convicted of the contempt for not admitting him, and it is not right that the Dean and Chapter, who are subject to the Archbishop, should certify any more than himself.—*Grene, ad idem*. A matter which can be tried by witnesses falls within the knowledge of the country, but this question of ability, even though one sent to the Ordinary, would be by him tried by witnesses; consequently, when the Ordinary is a party, the matter will be tried by a jury.—*WILLOUGHBY*. Lay people will not know, nor can it be understood that they will know, whether he was a clerk or not.—*HILLARY* to *Thorpe*. Suppose the Archbishop were to demand land as his inheritance, and bastardy were alleged against him, to whom would the Court send to try the matter? I think to the Archbishop himself, and yet he would himself be a party; so also in this matter.—*Thorpe*. Sir, in the case which you put the Archbishop would not be using the action as Ordinary, but as another person, and because he represents two estates, one as Ordinary, the other as another person, it is possible that the Court would send to himself in order to be certified, but in this case the suit is made against him as Ordinary, and therefore it is otherwise.—They were adjourned, &c.

Avowry. (56.) § One avowed the taking of pigs in Polehurst, and the taking was supposed as in his several *damage feasant*.—*Grene*. We tell you that Polehurst is a common way for the people of the whole of

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serreit maunde en le cas, desicomme ceste chose est A.D. 1346.
 a trier par Court Christiene.—Et COURT fuit del
 avys, pur ceo qe le Metropolitene est mesme partie,
 qe serreit maunde au Dean et al Chapitre Deverwyke.
 —*Thorpe*. Nous prioms averement, qar ceste ablete
 covient estre enquis, eaunt regarde al temps del
 presentement, qar, tut fuit il ore mort, unqore pur
 le contempte qe Lordeigner fit pur le nient resceiver
 serra il atteint del contempte, et nest pas resoun
 qe le Dean et Chapitre, qe sount suggifs al Ercevesqe,
 certifient plus qil mesme.—*Grene, ad idem*. Chose qe
 purra estre trie par proves chiet¹ en conissaunce du
 pays, mes ceste ablete, tut maundast homme, serreit
 trie par Ordeigner par proves; *per consequens*, quant
 Ordeigner est partie, il serra trie par enqueste.—
WILBY. Layes² gentz ne saverount pas,³ ne ne poet
 estre entendu qils saverount, sil soit cleric ou noun.
 —*HILL*. a *Thorpe*. Jeo pose qe Lercevesqe demandast
 terre comme soun heritage, et fuit allegge contre
 luy bastardie, a qi maundreit Court de trier la
 chose? Jeo crey al Ercevesqe mesme, et si serreit
 il partie mesme; auxint de cest part.—*Thorpe*. Sire,
 el cas qe vous mettetz ils userent pas accion come
 Ordeigner,⁴ mes come autre personne, et pur ceo qil
 represente deux estates, un come Ordeigner, autre
 come autre personne, il poet estre qe Court maundreit
 a luy mesme destre ascerte,⁵ mes si est suite fait
 vers luy comme Ordeigner, par qai il est autre.—
Adjournantur, &c.

(56.)⁶ § Un avowa la prise des porkes en Polehurst, *Avowere*
 ou la prise fut suppose come en son several damage
 fesaunt.—*Grene*. Nous vous dioms qe Polehurst est
 un comune chimyn as gentz de tote le counte

¹ L., chete.² C., Lays.³ C., jammes.⁴ L., Ordeigner mesme.⁵ L., asserte.⁶ From H., and I.

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A.D. 1346. the county to drive their beasts to the forest of A., where they are agisted, and to drive them back again, and we demand judgment whether, in that place, which is thus a common way for the whole country, you can for that cause maintain the taking, since we drove our beasts to the forest, where they were agisted.—*Huse*. Whereas you have said that Polehurst is a common way for the driving of beasts, we tell you that Polehurst is a great piece of land, and we tell you that the place in which we have supposed the taking to have been effected is our several: ready, &c—*Grene*. Then you do not deny that Polehurst is a common way, and therefore you shall not be admitted to aver that it is your several.—And afterwards it was definitely asked of *Grene* by the Court whether he would accept the averment.—And he did not dare to refuse it. Therefore he said that Polehurst was a common way *absque hoc* that it was the avowant's several.—And upon that they were at issue.

Dower. (57.) § In Dower the tenant vouched, and bound the vouchee to warranty on the ground that one J. had leased the land to him for term of life, rendering to J. certain rent, and had bound himself and his heirs to the warranty (and he made *propter* of a deed to that effect), and that this J. had granted the reversion to the person who was now vouched, and the tenant had attorned to him, and the vouchee was seised of the rent reserved, and for that cause the tenant would bind him to the warranty.—*Skipwith*. Sir, you see plainly how he binds us only by reason of the reversion, and he has himself shown that his warranty still depends upon his lessor by force of his original purchase; therefore it does not fall to deraign warranty against us who are purchaser of the reversion; therefore we demand judgment whether he can bind us.—WILLOUGHBY. To

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de chacer et rechacer lour bestes en la foreste de A.D. 1346.
 A., ou ils furent agistes, et demandoms jugement si
 en cel lieu qest issi comune chymyn a tote le pays,
 puis qe nous chaceames noz bestes a la foreste ou
 ils furent agistes [si vous puissetz par cele cause la
 prise meintener.—*Huse*. La ou vous avetz dit qe
 Polehurst est un comune chymyn de chacer bestes,]¹
 nous vous dioms qe Polehurst est un grande place
 de terre, et vous dioms qe le lieu ou nous avons
 suppose la prise estre faite est nostre several;
 prest, &c.—*Grene*. Donqes vous ne dedites pas qe
 Polehurst est comune chymyn, par quei daverer qe
 cest vostre several ne serretz resceu.—Et puis fut
 appose par la Court de *Grene* sil voleit laverement.
 —Et il nosa pas refuser. Par quei dit qe ceo fut
 comune chymyn saunz ceo qil fut soun several.—
 Et sur ceo furent a issue.

(57.)² § En Dowere le tenant voucha, et lia le Dowere
 [Fitz.,
 vouche a la garrantie par taunt qun J. li lessa la *Counturple*
 terre a terme de vie, rendaunt a lui certeine rente,
 et obligea lui et ses heirs a la garrantie (et myst 7.)
 rante,
 avant cel fait) le quel J. granta la reversion a celi
 qest ore vouche, et il attourna, et le vouche seisi
 de la rente reserve, et par cele cause il li voleit
 lier.—*Skip*. Sire, vous veietz bien coment il nous
 lie forsqe par cause de reversion, et il mesme ad
 moustre qe sa garrantie depent unquore vers son
 lessour par force de soun primer purchace; par
 quei vers nous qe sumes purchaceour de reversion
 ne chiet pas a derener garrantie; par quei nous
 demandoms jugement si, &c.—*WILBY*. Clametz

¹ The words between brackets are | ² From H., and I., until other-
 omitted from I. wise stated.

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A.D. 1346 begin with, do you claim anything in the reversion or not?—*Skipwith*. It seems to us that we are not now in the same case as if the person who vouched us were tenant in dower, to whom it does not belong to have warranty by specialty but only by reason of a reversion, in which case it would be necessary for us either to disclaim the reversion or to warrant; but in this case he himself shows that he still has a claim to warranty against the person who leased to him, and therefore we are not to be bound to warranty by reason of the reversion.—WILLOUGHBY. Then you confess that the reversion belongs to you; and if you abide judgment on that point, and judgment passes against you, you will lose the land; and therefore consider whether you will say anything else.—*Skipwith*. At all hazards we demand judgment whether he can bind us for such a cause. And, Sir, we have seen that, in case a vouchee counterpleads warranty by reason of a matter which falls under the head of law, he will have no other judgment but that he must warrant, but, nevertheless, Sir, we will accept that which you adjudge.—WILLOUGHBY. Rest assured that, if judgment passes against you, the land will be lost; and further, because if a lease had been made to you for term of life, and a rent reserved without deed, you would have a claim to warranty against your lessor, so, for the same reason, if he grants the reversion to you, by reason of which he attorns, you have as much as your grantor had, and consequently the same law charges you to do as he would have done. And, inasmuch as you have counterpleaded the warranty, in which case by statute,¹ if judgment passes against you, you lose the land, the COURT therefore adjudges that the woman do recover her dower against the tenant, and he over to the value against you.—And yet the parties did not take any delay by adjournment.

¹ 13 Edw. I. (Westm. 2), c. 6.

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rienz en la reversion ou nent a commencement?—A.D. 1346.
Skip. Il nous semble qe nous ne sumes pas a ore come celi qe nous vouche fut tenante en dowere, a qui nattient pas a aver garrantie par especialte mes soulement par cause de reversion, en quel cas il nous covendra a desclamer en la reversion, ou garrantir; mes en ceo cas il mesme moustre qil ad garrantie unquore vers celui qe lessa, et par taunt nous nent liable par cause de reversion.—*WILBY.* Donques conissetz vous qe la reversion est a vous; et si vous demuretz sur cel point, si jugement passe countre vous, vous perdrez terre; et pur ceo avisetz vous si vous voilletz autre chose dire.—*Skip.* A touz perils nous demandoms jugement si par tiele cause il nous puisse lier. Et, Sire, nous avoms vewe en cas qe le vouche countreplede la garrantie par chose qe chiet en lei qil navera autre jugement mes qil garrante, mes nequident, Sire, nous prendroms ceo qe vous agardetz.—*WILBY.* Soietz seure qe si le jugement passe countre vous qe terre serra perdu; et puis, pur ceo qe si le lees se fist a vous a terme de vie, et rente reserve saunz fait, vous averetz garrantie vers vostre lessour, et par mesme la reson sil graunt la reversion a vous par quel il est attourne, vous avetz quanqe vostre grauntour avoit, et *per consequens* mesme la lei vous charge de faire. Et, de ceo qe vous avetz countreplede la garrantie, en quel cas par estatut, si jugement passe countre vous, vous perdrez terre, par quei agarde la COURT qe la femme recovere soun dowere vers le tenant, et il a la value vers vous.—Et unquore les parties pristrent pas delaie par ajournement.

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A.D. 1346. § *Skipwith*. What have you to bind us to Dower. warranty?—*Gaynesford*. A. leased to us for term of our life, by this deed with warranty, to hold of him by certain services, and this A. has granted the reversion and the services to you, and in virtue of that grant we have attorned to you, and you are seised of the services.—*Skipwith*. You see plainly how he shows that another person, by whose lease he claims to hold, is bound to warrant, and against us he shows nothing; therefore we demand judgment.—*SHARSHULL*. Do you claim anything in this reversion or not?—And *Skipwith* was by judgment put to answer this, and claimed the reversion, and demanded judgment, inasmuch as by the deed of lease, of which he made *profert*, it was proved that the lessor was bound to warrant the tenant, whether the tenant could deraign warranty against him.—*WILLOUGHBY*. And, since you have not denied that the reversion belongs to you, but have confessed that you are seised of the reversion and of the rent, and your lessor, even without a deed, would by reason of the reversion, if he had not granted it away, have been bound to warrant him, so for the same reason are you. And the statute¹ purports also that, as the tenant would lose his land if the vouchee could escape from the warranty, so also the warrant will lose his land if it be found against him that he ought to warrant; therefore the COURT doth adjudge that the defendant do recover against the tenant, and the tenant over to the value against you, and that you be in mercy.

¹ 13 Edw. I. (Westm. 2), c. 6.

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§ *Skip*.¹ Qai avietz de nous lier a la garrauntie ? A.D. 1346
 —*Gayn*. A. nous lessa a terme de nostre vie par Dowere.
 ceo fait ov garrauntie, a tener de luy par certainz
 services, [quel A. ad graunte la reversion a vous, et
 les services],² par quel grant nous sumes attourne a
 vous, et vous seisi de les services.—*Skip*. Vous veietz
 bien coment il moustre qautre luy est tenutz de
 garrauntir, de qi lees il cleyme tener, et devers nous
 ne moustre rienz, par qai, &c., jugement.—*SCHR.*
Clametz vous rienz en ceste reversion ou noun?—
 Et a ceo fut *Skip*, par agarde mys a respoudre, et
 clama en la reversion, et demanda jugement, desicome
 par le fait du lees, qil ad mys avant, est prove qe
 le lessour luy est tenutz de garrauntir, si devers ly
 la garrauntie puisse derrener.—*WILBY*. Et de puis
 qe vous navetz³ pas dedit qe la reversion est vostre,
 einz avetz conu qe vous estes seisi de la reversion
 et la rente, et vostre lessour, tut saunz fait, par
 cause de reversion, sil ne la ust graunte, serra
 tenutz a garrauntir a luy, et par mesme la resoun
 vous. Et lestatut voet auxi, comme le tenant
 perdrait terre si le vouche purreit estourtre de la
 garrauntie, auxint perdra le garraunt sil soit atteint
 qil deive garrauntir; par qai agarde la COURT qe la
 demandante recovere vers le tenant, et il a la value
 devers vous, et vous en la merci.

¹ This report of the case is from L. and C.

² The words between brackets are omitted from L.

³ C., navietz.

No. 58.

A.D. 1846. (58.) § The Master¹ of the Hospital of R.¹ brought Trespass: a writ of Trespass against one J.,¹ who appeared upon a *Capias*, and said that the plaintiff ought not to be answered because he was excommunicated, and made *profert* of a letter of the Dean of St. Martin, which testified the fact. And he said that the Dean was exempt from all jurisdiction of the Ordinary, and himself had the jurisdiction of an Ordinary to redress all matters appertaining to the office.—*R. Thorpe*. You see plainly how the letter of which he makes *profert* is not under any authentic seal which this Court ought to trust; therefore we demand judgment, &c.—*Grene*. We have shown that the Dean has the jurisdiction of an Ordinary, and consequently to pronounce excommunication, and it is no part of his duty to certify it to the Bishop, because the Bishop does not in any way meddle with him, and therefore you ought to admit the letter of excommunication from him.—*HILLARY*. If bastardy were to be tried, would this Court send to the Dean to certify it? Certainly not, but to the Bishop; therefore we shall not admit any other certificate than one from the person to whom this Court would send; therefore answer.—*Skipwith*. We tell you that this same Hospital of which the plaintiff has alleged himself to be Master has its Master made by collation of the Dean of St. Martin, which Dean gave us the governance of the Hospital, and that by these deeds (and *Skipwith* made *profert* of them), and the present plaintiff has claimed to be Master by election of the

¹ For the names, see p. 379, note 1

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(58.)¹ § Le Mestre del Hospital³ de R. porta brief A.D. 1346. de Trespas vers un J., le quel vient par le *Capias*, Trans: Es- et dit qe le pleintif ne serreit respondu pur ceo ment.² qil fut escomenge, et myst avant la lettre le Dean [Fitz., Mainprise, de Seint Martyn qe le tesmoigna. Et dit qe le 27.] Dean fust exempt de chesqune jurisdiccion [Ordiner, et avoit jurisdiccion Ordiner mesme a redresser totes choses qe y appent].⁴ — *R. Thorpe.* Vous veietz bien coment la lettre qil met avant nest pas soutz seal autentik a quei ceste Court dust doner foi; par quei nous demandoms jugement, &c.—*Grene.* Nous avoms moustre coment le Dean ad jurisdiccion Ordiner, et per consequens a faire escomengement, et a luy nattient il pas del certifier al Evesqe, puis qe Levesqe ne se melle rienz de luy, par quei de li le devetz resceivere.—*HILL.* Si bastardie fut a trier, maundra ceste Court al Dean del certifier? Nay certes, mes al Evesqe; par quei autre certificacion qe de celi a qe ceste Court maundra⁵ ne resceivroms pas; par quei responez.—*Skip.* Nous vous dioms qe mesme lospital de quei le pleintif se fist se fait Mestre et de la collacion le Dean de Seynt Martyn, le quel Dean nous dona le governaille del Hospital,⁶ et par cestes faites—et les myst avant—et celi quore se plaint clama destre Mestre par eleccion⁶ de noz

¹ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 327. It there appears that the action was brought by Simon, Master of the Hospital of St. Leonard of Newport, against William de Midelton, clerk. The defendant was attached to answer, "quare ipse, simul cum Hugone Hanmill vicario ecclesie de Neuport, et Johanne Hanmill clericu, vi et armis clausum et domos Hospitalis predicti, tempore Willelmi de Sandone nuper

" Magistri Hospitalis predicti, praedecessoris predicti Simonis, apud Neuport fregit, et bona et catalla Hospitalis predicti, tempore predicto, ad valentiam decem librarum ibidem inventa cepit et asportavit."

² Escomengement is from I. alone.

³ I., Ospital.

⁴ The words between brackets are omitted from I.

⁵ H., demaundra.

⁶ I., collacion.

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A.D. 1346. fellow-brethren and of the House, whereas the Mastership is dative by the Dean, and not elective, and so the plaintiff has abated on our possession; and we demand judgment whether against us who are Master, merely because he describes himself as Master, he ought to have an action.—*Thorpe*. We will aver that on the day on which the writ was purchased, and this day, we are Master.—*Grene*. You shall not be admitted to that since we have shown that the Mastership is dative by the Dean, who gave it to us, and we have confessed that you claimed it against us by reason of election, which title cannot make you Master if the fact be as we have said; therefore you shall not be admitted to this general averment.—*Thorpe*. We have nothing to do with the Dean's deeds of which you make profert, nor with the reason which you give for claiming to be Master; but, as to your statement that we are not Master, we are ready to aver that we are Master, and that averment you refuse; judgment.—Therefore *Grene* was formally asked by the Court whether he would accept the averment; and he did not dare to refuse it. Therefore he said that he, and not the plaintiff, was Master, for the reason abovesaid; ready, &c.—And he prayed that this reason might be entered.—But he could not have it so.—Therefore, because the defendant appeared in virtue of a *Capias*, *Grene* prayed that he might find mainprise.—*Thorpe*. You ought not to be allowed to find mainprise, because heretofore, in this same plea, you found mainprise, and cancelled it, and therefore on this original writ you ought not to be allowed to

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confreres et de la mesoun, la ou cest datif par le A.D. 1346.
 Dean, et noun pas electif, abati sur nostre possession ;
 et demandoys jugement si devers nous qe sumes
 Mestre, puis qil se nome Mestre, deit il accion aver.¹
 —*Thorpe*. Nous voloms averer qe jour de brief
 purchace, et huy ceo jour, nous sumes Mestre.²—
Grene. A ceo navendrez pas puis qe nous avoms
 moustre qe cest datif par le Dean, le quel nous
 dona, et avoms conu qe vous le clamavez sur nous
 par cause delleccion, quel title ne vous poet faire
 Mestre sil soit come nous avoms dit ; par quei a cel
 averement general ne serrez resceu.—*Thorpe*. Nous
 navoms qe faire des faitz del Dean qe vous mettez
 avant, ne a la cause par quel vous clametz destre
 Mestre ; mes a ceo qe vous dites qe nous ne sumes
 pas Mestre, prest, &c., qe si, quel averement vous
 refusez ; jugement.—Par quei fut oppose de *Grene*
 par la Court sil voleit laverement ; et il nel osa
 pas refuser. Par quei il dit qil fut Mestre par la
 cause susdite, et noun pas le plaintif ; prest, &c.—
 Et pria qe cele cause fust entre.—*Sed non potuit*.—
 Par quei, pur ceo qil vient par le *Capias*, il pria
 qil pout trover meinprise.—*Thorpe*. Ceo ne devez
 trover, qar en mesme cel plee autrefoitz vous
 trovastes³ meynprise, et debrusastes,⁴ par quei en
 cest original nel devetz pas autrefoitz trover.—

¹ William's plea was, according to the record, " ubi prædictus Simon tulit breve istud versus ipsum Willelmum, ut Magister, &c.. supponendo eundem Simonem esse Magistrum Hospitalis prædicti, dicit quod ipse Willelmus est Magister ejusdem Hospitalis ex collatione Decani Sancti Martini magni Londoniarum et confirmatione Capituli ejusdem loci, et fuit die impetrationis brevis sui, unde petitur judicium, &c. Et profert hic

" collationem prædicti Decani, et confirmationem Capituli, quæ præmissa testantur, &c."

² Simon's replication was, according to the record, " quod die impetrationis brevis . . . ipse Simon fuit Magister Hospitalis prædicti, et non prædictus Willelmus sicut idem Willelmus dicit."

Issue was joined upon this, and the *Venire* awarded.

³ H., trovatez.

⁴ H., debrusatez.

No. 59.

A.D. 1346. find it again.—**HILLARY.** After a party has once cancelled his mainprise he shall not delay the plaintiff by another before he has pleaded; but, when he has pleaded, he may well be admitted to find mainprise.—Therefore the mainprise was admitted.

Note.

§ Note that *profert* was made of a letter of the Dean of St. Martin le Grand of London, who is a person exempt, and has the jurisdiction of an Ordinary, in testification of an excommunication. And it was not allowed, because neither the seal nor the testification of any one is admissible or authentic except that of a Bishop.

Formedon. (59.) § A Formedon in the remainder was brought by John Pyne.—As to part of the tenements *Thorpe* said that the person whom the defendant supposed to have given was never seised so that he could make a gift.—*Blaykeston.* That is not an issue without saying that he did not give.—And, because this action is taken entirely on the seisin of the donor, the issue was accepted.—It is otherwise in a Formedon in the descender, because in that it is not necessary to mention the seisin of the donor.—And as to the rest of the tenements, *Thorpe* said:—The defendant ought not to have an action, because one who was his ancestor enfeoffed one J. of the same tenements, by the description of the

No. 59.

HILL. Apres qe partie eit un foitz debruse sa A.D. 1346.
meynprise avant qil eit plede il ne delaiera pas le
plaintif par nul autre; mes, quant il ad plede, il
serra bien resceu. — Par quei la meinprise fut
resceu.¹

§ *Nota*² qe la tette le Dean de Seint Martyn le *Nota*.³
grant de Loundres, qest personne exempte, et ad
jurisdiccion Ordinare, fuit mys avant pur tesmoigner
un escomengement. *Et non allocatur*, pur ceo qe
nully seal ne tesmoignaunce est receivable ne
autentik forqe Devesqe.⁴

(59.)⁵ § Forme de doun en remeindre par Johan Fourme-
Pyne.—Quant a parcel *Thorpe* dit qe celi qil supposa doun.
qe dona ne fut unques seisi si qil poait doun faire. [Fitz.,
Issue, 52.]
—*Blaik*. Ceo nest pas issue saunz dire qil ne dona
pas.—Et, pur ceo qe ceste accion est pris tut de la
seisine le donour, lissue fut resceu.—*Non sic* en
descender, pur ceo qil ne covient pas de parler de
la seisine le donour.—Et quant al remenant, *Thorpe*
dit qil ne dust accion aver, qar un son auncestre
enfeffa de mesmes les tenementz, par noun del

¹ The roll shows that mainprise was accepted, and the names of the mainpernors are given.

After several adjournments there was a verdict, at *Nisi prius*, “quod die impetracionis brevis praedicti prædictus Simon fuit Magister Hospitalis predicti, et non prædictus Willelmus, sicut idem Willelmus dicit. Quæsitum est a præfatis juratoribus ad quædamna, &c. Dicunt ad damnum ipsius Simonis quadraginta librarum.”

Judgment was then given for Simon to recover his damages, and a *Capias* was awarded against William.

“ Postea a die Sancti Michaelis in xv dies anno regni Regis nunc

“ vicesimo primo prædictus Willelmus de Mideltone, captus per breve Vicecomitibus Londoniarum directum, et per eosdem Vicecomites hic ductus, committitur Gaolæ de Flete, &c.”

There appears to have been subsequently a writ of Error:—“ Postea in Crastino Animarum anno regni ejusdem Regis xxjº prædicta recordum et processus mittuntur coram Rege, per breve clausum, per J. de Aultone.”

² This note of the first part of the case is from L., and C.

³ The marginal note is omitted from C.

⁴ C., de Evesqe.

⁵ From H., and I.

No. 59.

A.D. 1346 manor of E., and bound himself and his heirs to warrant J. and his heirs and assigns, which J. enfeoffed our father of the same tenements (and Thorpe made *profert* of both deeds), and we demand judgment whether contrary to the warranty, &c.— And the demand was in the writ supposed to be in two vills, that is to say, E. and A., and the deed of assignment purported that J. had enfeoffed the tenant's father *de omnibus terris et tenementis* which he had in E. in the Hundred of W.—*Blaykeston*. You see plainly how we demand lands in two vills, and he pleads in bar, as assign, a warranty of tenements in E., and he does not make himself assign of the tenements in the vill of A. in which we demand; therefore, as to the tenements in that vill, that is to say, ten acres of land we pray seisin; and, as to the tenements in the vill of E., we say that they did not pass by the deed.—*Thorpe*. And we demand judgment, since we have said that J. enfeoffed our father of the whole of your demand, which fact we will aver, and therefore we are assign of the whole; and, inasmuch as you have avoided the deed with regard to the other part, the deed is confessed, and you have thereby confessed that this land passed by the deed, since it is not denied; therefore we demand judgment whether you can have an action.—*Blaykeston*. You cannot say that you are assign except in virtue of the deed, and the deed does not make you assign except in one vill, and you have confessed that the tenements are in two vills; and you cannot now say that one is a hamlet of the other because you have pleaded in bar; therefore by no possibility can the whole of our demand be in the one vill since you have not surmised it by your plea in bar.—*Grene*. By your ancestor's first deed the whole of your demand in the two vills passed by the description of the manor

No. 59.

manere de E., un J., et obligea luy et ses heirs de A.D. 1346 garrantir luy et ses heirs et ses assignes, le quel J. enfessa nostre pere de mesmes les tenementz, et myst avant lun fait et lauter, et demandoms jugement si encountre la garrantie, &c.— Et la demande fut en le brief suppose en ij villes, saver E. et A., et le fait de assignement voleit qe J. avoit enfessa son pere *de omnibus terris et tenementis* qil avoit en E. en hundred de W.—*Blaik*. Vous veietz bien coment nous demandoms terres en ij villes, et il plede en barre, come assigne, par une garrantie de tenementz en E.¹ et il ne se fait pas assigne des tenementz en la ville de A. ou nous demandoms; par quei, quant as tenementz en cele ville, saver x. acres de terre, nous prioms seisine; et, quant as tenementz en la ville de E., nous dioms qil ne passerent pas par le fait.—*Thorpe*. Et nous demandoms jugement, puis qe nous avoms dit qe de tot² vostre demande J. enfessa nostre pere, quale chose nous voloms averer, et par taunt nous sumes assigne de tut; et, par taunt qe vous avetz voide le fait del autre parcel, le fait est conu, [par quel avetz conu]³ qe cele terre passa par le fait, puis qe ceo nest pas dedit; par quei nous demandoms jugement si acciou poetz aver.—*Blaik*. Vous ne poetz dire qe vous estez assigne, forqe [par le fait, et le fait vous fait assigne forqe en]³ lune ville, et vous avetz conu qe les tenementz sont en les ij villes; et ne poetz dire a ore qe lun est hamele del autre par taunt qe vous avetz plede en barre; par quei pur nulle possibilite tut nostre demande poet estre en lun ville· puis qe par vostre plee en barre ne le surmeistes pas.—*Grene*. Par le primer fait de vostre auncestre tut vostre demaunde en les ij villes passa

¹ The words de tenementz en E. are omitted from I., and inserted by interlineation in H.

² tot is omitted from I.
³ The words between brackets are omitted from I.

No. 60.

A.D. 1346. of E. in accordance with the name of one of the two vills named in the writ; then the deed of assignment came afterwards, and purported that J. enfeoffed our ancestor *de omnibus terris et tenementis apud E. in hundredo de W.*, which E. must be understood to be the manor under the name of which the whole passed at the beginning, and not the vill. And, moreover, all the tenements in the Hundred of W. might be tenements in ten vills. And since we will aver the fact, and he does not deny it, we demand judgment, &c.—*Blaykeston*. Those words *apud E.* must refer to the vill and not to the manor, since the manor is not previously mentioned in the deed. And, moreover, those words *in hundredo de W.* cannot refer to all the tenements which he had in the Hundred, but must refer to all the tenements which he had in E. which is within the Hundred; therefore, &c.—And at last *Blaykeston* waived that point, and said, as to the whole, that nothing passed by the deed; ready, &c.—And the other side said the contrary.

Account. (60.) § A writ of Account was brought against one J. de B.—*Gaynesford*. You have here J. de B., who tells you that there are two persons named J. de B., that is to say, J. the father and J. the son, and you do not determine in your writ against which of them the writ is brought; judgment of the writ.—*Haveryngton*. We take your records to witness that yesterday we counted, and he defended for one J. de B., who is the father, and who does not now appear; therefore we demand judgment, since he has departed in contempt of the Court, &c.—*Gaynesford*. And we take your records to witness that we never defended except on behalf of the person of whom we now speak; and we demand judgment since you have confessed that there are two of the name, and have not in your writ determined against whom the writ

No. 60

par noun de maner de E. acordaunt al noun dun A.D. 1346.
 des ij villes nome en le brief; donques vint le fait
 dassignement apres, et dit qe J. ad enfesse nostre
 auncestre *de omnibus terris et tenementis apud E. in*
hundredo de W., quel E.¹ serra entendu le maner
 par noun² de quel tut passa a commencement, et ne
 mye a la ville. Et auxi touz les tenementz *in*
hundredo de W. pount estre tenementz en x. villes.
 Et puis qe nous le voloms averer, et il nel dedit
 pas, nous demandoms jugement, &c.—*Blaik*. Cel
 paroul *apud E.* referra a la ville et nemye al
 maner, puis qe maner ny est pas nome avant.³ Et
 auxi cele parole *in hundredo de W.* ne poet referrer
 a touz les tenementz qil ad en Lundrede [mes a
 touz les tenementz qil ad en E. qest]⁴ deinz
 Lundred; par quei, &c.—Et al dreyn, *Blaik* weyva
 cel, et dit, quant a tut, qe rienz ne passa par le
 fait; prest, &c.—*Et alii e contra*.

(60.)⁵ § Brief Dacompt porte vers un J. de B.—*Acompt.*
Gayn. Vous avetz cy J. de B., qe vous dit qils y [Fitz.,
 sount ij J. de B., saver, J. le pere et J. le fitz,⁶ et 683.]
 vous ne determinez par en vostre brief vers qi deux
 le brief est porte; jugement de brief.—*Har*. Nous
 pernoms voz recordz qe here nous countames, et il
 defendi pur un J. de B., qe fut le pere, le quel ne
 vient pas a ore; par quei nous demandoms jugement,
 puis qil est departi en despit de la Court, &c.—
Gayn. Et nous pernoms voz recordz qe unques
 defendimes forqe pur celi qe nous parloms a ore;
 et demandoms jugement [puis qe vous avetz conu
 qils y sount ij, et navetz pas en vostre brief
 determine vers qi le brief est porte; jugement].⁴—

¹ I., W.² The words par noun are omitted from I.³ avant is omitted from I.⁴ The words between brackets are omitted from I.⁵ From H., and I.⁶ H., fitz.

No. 61.

A.D. 1346 is brought; judgment.—*Haveryngton*. The father need not change his name on account of his son; therefore my writ is sufficiently good.—**SHARSHULLE**. We record that you defended for the father, and even if the father and the son had come then, and taken exception to the writ as you do, the matter shown would have maintained the writ, because a father will never change his name on account of his son; therefore answer.—And he said that he was never the plaintiff's receiver; ready, &c.—And the other side said the contrary.

Entry

(61.) § A writ of Entry *de quibus* was brought against one Robert de Bugyntone, and it was supposed therein that Robert disseised the defendant's father.—*Derworthy*. We tell you that Walter our brother was seised, and died seised, and, after his death, the defendant's father, who was of the half blood to Walter, abated on our possession, and we ousted him, and we demand judgment whether in respect of that ouster he can have an action.—*Huse*. You see plainly how this is a writ touching the right mixed with the possession, and that which he has said amounts to nothing more than that the tenant did not disseise our father; and we will aver that he did.—*HILLARY*. That is a plea in this writ affecting the right just as much as in an assise; therefore answer.—*Huse*. Then we tell you that our grandfather died seised, and, after his death, our father entered as son and heir, and was seised until disseised by you; but we do not admit that your brother died seised; and we demand judgment, &c.—*Derworthy*. As to that we tell you that your grandfather did not die seised; ready, &c.—*Huse*. That is not an issue, since by your plea at the beginning you confessed an ouster of my father, but by reason of abatement on your possession; and as to that we say that he was seised as heir, as above,

No. 61.

Hav. Le pere ne deit pas chaunger son noun pur A.D. 1346.
soun fitz; par quei moun brief est assetz bon.—
SCHARS. Nous recordoms qe vous defendistes pur le
pere, et mesqe le pere et le fitz ussent venuz
adonques, et chalange le brief come vous faites, la
matere moustre meintiendra le brief, qar le pere ne
chaungera pas jammes soun noun pur son fitz; par
quei responcez.—Et dit qe unques soun resceivour;
prest, &c.—*Et alii e contra.*

(61.)¹ § Brief Dentre *de quibus* fut porte vers un Entre.
Robert de Bugyntone, et suppose qe R. disseisi soun [Fitz.,
Entre,
pere.—*Der.* Nous vous dioms qun Wauter nostre 60.]
frere fut seisi, et murust seisi, apres qd mort le pere
le demandant, qe fut del demi saunke a Wauter,
abaty sur nostre possession, et nous luy oustames,
et demandoms jugement si de cele ouster il deive
accion aver.—*Huse.* Vous veietz bien coment cest
un brief de dreit myxt en la possessioun, et ceo
qil dit namonte a autre rienz mes qil ne disseisi pas
nostre pere; et nous voloms averer qe si.—HILL.
Taunt avant est ceo plee en ceo brief de dreit come
en une assise; par quei responcez.—*Huse.* Donques
vous dioms qe nostre aiel murust seisi, apres qd
mort nostre pere entra come fitz et heir, et seisi
fut tanqe disseisi par vous; mes nous ne conissoms
pas qe vostre frere murust seisi; et demandoms
jugement, &c.—*Der.* A ceo vous dioms qe vostre
aiel ne murust pas seisi; prest, &c.—*Huse.* Ceo
nest pas issue, puis qe par vostre plee a commencement
vous conissates un ouster a moun pere, mes
par abatement sur vostre possession; et a ceo
dioms nous qil fut seisi come heir, *ut supra*, par

¹ From H., and I.

No. 62.

A.D. 1346. and therefore to take issue on the seisin of the grandfather is nothing to the purpose.—**HILLARY.** Since he has put you to make a title, and you have made it from the death of your grandfather, and that he has traversed, that suffices for him.—Therefore the issue was accepted by compulsion of the COURT.

Avowry. (62.) § William Mirresone was plaintiff against Henry de Catherton¹ in respect of his two cloaks² taken at Lancaster on a certain day, in a certain year, and in a certain place.—*Moubray* avowed the taking for the reason that in the town of Lancaster there were a Provost and Bailiffs who had a fair at a certain time every year, and a market on Saturday; and he said that afterwards, by grant from Kings, there was a Mayor in the same town, and that this Mayor and those Bailiffs after there was a Mayor, and the Provost and Bailiffs before that time were seised of the aforesaid franchise from time whereof there is no memory; and, because the plaintiff on the said Saturday put for sale in the town two bales of cloth, he as bailiff for the time being demanded toll, to wit, one halfpenny for each bale; and, because the plaintiff would not pay it, he took the two cloaks, as it was perfectly lawful for him to do.—*Blaykeston.* Judgment of the avowry, because he

¹For the names of the defendants seems preferable to "bells,"
see p. 391, note 1. because the plaintiff was a dealer

²The translation "cloaks" in cloth.

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quei a prendre issue sur la seisine laiel nest pas a A.D. 1346.
purpos.—HILL. Quant il vous ad mys de faire title,
et vous lavetz fait de la mort vostre aiel, et ceo ad
il traverse, et ceo luy suffit.—Par quei l'issue par
chace de COURT fut resceu.

(62.)¹ § William Mirresone fut pleintif vers Henre Avowere.
de Cathertone de ses ij cloches pris en Lancastre [Fitz.,
certein jour, an, et lieu.²—Moubray avowa la prise Acouvre,
par la resoun qe en la ville de Lancastre il y avoit 129.]
provost et baillifs les queux avoient faire a certain
temps chesqun an, et marche par jour de Samady;
et dit qe apres, par grant des Rois, il y avoit Meire
en mesme la ville, les queux Meire et baillifs, puis
qil y avoit Meire, et provost et baillifs furent seisiz
del avantdite fraunchise de temps dount il ny ad
memore; et, pur ceo qe le pleintif al dit Samady
myst a vente en la ville deux summages de drap, il
come baillif qe adonques estoit li demanda tolun,
saver, pur chesqun summage un maille; et pur ceo
qil ne vodra faire il prist les deux cloches come
bien li lust.³—Blaik. Jugement del avowere, qar il

¹ From H., and I., until otherwise stated, but corrected by the record, *Placita de Banco*, Easter, 20 Edw. III., R^o 331. It there appears that the action was brought by William son of William Mirresone, burgess "villæ de Prestone," against William son of Adam son of Simon de Lancastre, and John de Catherton.

² The declaration was, according to the record, "quod prædicti Willelmus filius Adæ, et Johannes, die Sabbati proxima post Festum Apostolorum Philippi et Jacobi anno regni Regis nunc decimo septimo, in villa de Lancastre in quodam loco qui vocatur le Marketsted, cuperunt duas clochas

" ipsius Willelmi filii Willelmi, et " eas injuste detinuerunt contra " vadium et plegios, &c."

³ The avowry was, according to the record, "quod dudum in prædicta villa de Lancastre præpositus et Burgenses fuerunt qui prædictam villam tenuerunt ad feodi firmam de Regibus et Dominis Comitatus Lancastriæ qui pro tempore fuerint pro viginti marcis per annum. Et iidem præpositus et Burgenses, et prædecessores sui, a tempore quo non extat memoria, habuerunt in eadem villa feriam, ad Festum Sancti Michaelis quolibet anno, a vigilia prædicti Festi per quindecim dies tunc proxime sequentes

No. 62.

A.D. 1346. avows on the ground of a franchise which he supposes to abide in the Mayor and the community, in which case he ought to have made a cognisance on their behalf, since he does not affirm any interest in himself except as their officer; and moreover he has confessed that there was at one time a Provost, and he does not show how that head office was changed into a mayoralty either by license or by grant from the King; judgment.—And this exception was not allowed.—*Blaykeston.* We tell you that in the time of King Edward the grandfather of the present King, in the Eyre in the county of Lancaster, a *Quo Warranto* was sued against the Bailiffs and the community of Lancaster to show by what warrant they claimed to have a fair and a market, whereupon they made *provert* of a charter from King John, whereby he granted to them all the franchises which the burgesses of Northampton had; and because in the said grant no particular franchise was expressly granted, and it was not shown by record what franchises the people of Northampton had, and they could not affirm any title of prescription in themselves with regard to the said franchises, judgment was therefore given that the said franchises should be seised into the King's hand as forfeited; and we demand judgment whether by this title of

No. 62.

avowe par cause dun fraunchise qil suppose qe A.D. 1346
 demoert en le Meire et la cominalte, en quel cas
 il dust aver faite une conissaunce pur eux, puis qil
 nafferme rienz en luy mes come lour ministre, et
 auxi il ad conu a un temps qil y avoit provost, et
 il ne moustre pas coment cele sovereynte fut chaunge
 en meraunte par counge ne par graunt de Roi;
 jugement. — *Et non allocatur.* — *Blaik.* Nous vous
 dioms qen temps le Roi E. laiel, en Leire¹ de
 Lancastre, un *Quo Waranto* fut sui vers les baillifs
 et la cominalte de Lancastre par quel garrant il
 cleyme aver feire et marche, ou ils mystrent avant
 la chartre le Roi Johan, par quel il les graunta
 touz les fraunchises queux les Burgeys de Northam-
 tone avoient; et pur ceo qen le dit graunt nulle
 fraunchise expressemement fut graunte, ne moustre pas
 par record queux fraunchises ceux de Northamtone
 avoient, ne title de prescripcion en eux ne purreint
 de les dites fraunchises affermer, par quei fut agarde
 qe les dites fraunchises furent seisiz en la mayn le
 Roi come forfaites; et demandoms jugement si a cele

" duraturam, et etiam mercatum " qualibet septimana per diem " Sabbati, et quicquid ad feriam et " mercatum pertinet, et etiam " Thurghtolle qualibet die septi- " manæ de rebus venalibus venien- " tibus per medium villam pre- " dictam, licet non ponantur " venditioni. Et dicunt quod, post- " quam Maior et ballivi fuerunt in " eadem villa ex licentia domini " Regis, &c., dominus Rex concessit " prædictis Maiori et Burgensibus " quandam feriam qualibet anno " incipientem in vigilia Nativitatis " Sancti Johannis Baptista, et per " duos dies tunc proxime sequentes " continue duraturam, ac etiam " mercatum qualibet septimana " per diem Mercurii tenendum, sibi	" et successoribus suis in perpetuum " Et, quia prædictus Willelmus " filius Willelmi venit predicto die " Sabbati apud Lancastre præ- " dictam cum duobus summagiis " panni, et illa posuit venditioni in " predicto loco vocato Marketsted, " iidem Willelmus filius Adæ, et " Johannes, ut ballivi et Burgenses " villa prædictæ adtunc petierunt " de predicto Willelmo filio " Willelmi tolnetum, videlicet, pro " utroque summagiorum prædic- " torum obolum. Et, quia prædictus " Willelmus filius Willelmi præ- " dictos obolos pro tolneto prædicto " solvere noluit, ceperunt ipsi duas " clochas prædictas prout eis bene " licuit, &c."
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¹ I., le Eyre.

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A.D. 1346. prescription—contrary to the claim of those who were then bailiffs, who were your predecessors, by which they claimed in virtue of the charter of King John, which is since time of memory, notwithstanding which claim the franchises were seised by judgment—whether you can by such a title maintain this avowry.—*Moubray*. And we demand judgment, since you have not denied that we have such franchises this day, whether we have any need to answer to that which you have said since you do not produce anything in proof of it, and we pray the return.—

No. 62.

title de prescripcion, countre le cleyme ces qe furent A.D. 1346.
 adonques baillifs, qe furent voz predecessours, par quel il
 cleymerent par la chartre le Roi J., qest puis temps de
 memore, nient countreestaunt quel cleyme les fraun-
 chises furent seisiz par jugement, si vous puisez par
 tiel title ceste avowere meyntener.¹—*Moubray.* Et nous
 demandoms jugement, puis qe vous navietz pas dedit
 qe nous navoms tels fraunchises huy ceo jour, si a
 ceo qe vous avetz dit, puis qe vous ne moustrez rienz
 de ceo, eioms mester a resoundre, et prioms retourn.²

¹ The plea was, according to the record, “ quod, tempore domini Edwardi quondam Regis Angliae avi domini Regis nunc, coram Hugone de Cressingham et sociis suis Justiciariis domini Regis adtunc in praedicto Comitatu Lancastriæ itinerantibus summoniti fuerunt ballivi et communitas villæ de Lancastre predictæ ad respondendum domino Regi de placito quo waranto clamaverunt habere in predicta villa liberum burgum, feriam, et mercatum, emendas assisarum panis et cervisia fractarum, pilliorum, tumberium, infangthef, et furcas in villa de Lancastre predicta, ad quod iidem ballivi et communitas adtunc dixerunt quod dominus Rex Johannes dudum per chartam suam concesserat burgensibus suis villæ de Lancastre predictæ qui tunc fuerant omnes libertates quas burgenses sui Norhantonie adtunc habuerunt Et per illam chartam clamaverunt ipsi Burgenses et communitas tunc temporis libertates suas predictas habere et uti Et quia in illa charta non fuerunt predictae libertates praefatis burgensibus et communitati expresse concessæ, nec iidem burgenses et

“ communitas adtunc potuerunt in supradictis libertatibus suis titulum præscriptionis affirmare, consideratum fuit coram praefatis Justiciariis adtunc ibidem itinerantibus quod predictæ libertates seisirentur in manum domini Regis, unde petit judicium, ex quo predicti burgenses et communitas tunc clamaverunt habere libertates suas supradictas per chartam domini Regis Johannis predictam, non obstante quam clamatione eadem libertates per judicium Curie predictæ seisites fuerunt in manum domini Regis, si ad dicendum quod ipsi habent libertates illas titulo præscriptionis, contra tenorem recordi predicti, nunc admitti debeant, &c.”

² The replication was, according to the record, “ Willelmus filius Adæ et Johannes dicunt quod ipsi non habent diem nunc ad alias libertates clamandum seu triandum, sed, ex quo predictus Willelmus filius Willelmi non dedit quin ipsi nunc habent mercatum in predicta villa per diem Sabbati, et etiam feriam, et quicquid ad mercatum et feriam pertinet, nec quin predicta captio facta fuit occasione supradicta, petunt judicium et retornum, &c.”

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A.D 1346. *Haveryngton.* And we demand judgment, since we have alleged interruption of your title, and that by record to which your predecessors were parties, and so you are privy, in which case there is no necessity to have the record in Court; therefore we demand judgment.—And they were adjourned, &c.

Replevin. § Replevin of chattels. The plaint was made in respect of two cloaks in Lancaster. The avowry was made on behalf of the Mayor and bailiffs of Lancaster because the plaintiffs brought four bales of cloth, and put them there for sale on market-day, without paying toll, and the defendants took them for toll in arrear. They supported the avowry by prescription.—*Moubray.* You cannot maintain the avowry on the ground of prescription, because we tell you that in the time of King Edward the grandfather of the present King, at Lancaster, in an Eyre, in such a year, on a *Quo Warranto* you claimed a

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—*Hav.* Et nous demandoms jugement, puis qe nous A.D. 1346. avoms allegge interrupcion de vostre title, et ceo par record a quei voz predecessours furent parties, et issi vous prive, en quel cas il ne covent pas aver le recorde prest; par quei nous demandoms jugement, &c.¹—Et sount ajournez, &c.²

§ *Replegiari*³ des chateux. La pleinte fuit fait de *Replegiari*. deux cloches en Launcastre. Lavowere fuit fait pur Meire et baillifs de Launcastre pur ceo qe les plaintifs menerent iij summailles de drape, et le mistrent illoeques a vent jour du marche, sanz paier toun, ils pristrent par toun arrere, &c. Lierunt lavowere par prescripcion.—*Moubray*. Par prescripcion ne poietz lavowere meintener, qar nous vous dioms qen temps le Roi E. laiel, a Launcastre, en un Eyere, tiel an, a un *Quo Waranto*, vous clamastes

¹ According to the record, "Willel-
" mus filius Willelmi dicit quod,
" ex quo prædicti Willelmus filius
" Adæ et Johannes non dedicunt
" quin in prædicto itinere prefati
" ballivi et communitas qui tunc
" fuerunt clamaverunt libertates
" prædictas per chartam præ-
" dictam Regis, quæ quidem
" libertates, ut præmittitur, seisitæ
" fuerunt in manum Regis, petit
" judicium si iidem ballivi nunc
" admitti debent ad dicendum
" quod ipsi libertates illas
" habuerunt a tempore quo non
" extat memoria, contra recordum
" prædictum, vel si captionem præ-
" dictam, contra hoc quod ipsi
" superius allegarunt, justam
" advocare possint in hoc casu, &c."

² According to the roll, after
two adjournments, "modo veniunt
partes prædictæ per attornatos
suos, ethinc inde petunt judicium,
super placito suo superius

" placitato."
Judgment was then given:—
" Quia prædictus Willelmus filius
" Willelmi superiorus non dedicit
" quin prædicti Burgenses et ballivi
" nunc habent mercatum in præ-
" dicta villa, et quicquid ad merca-
" tum pertinet, nec quin prædicta
" captio facta fuit pro tolneto præ-
" dicto, quod proprie ad idem
" mercatum pertinet rationibus
" superiorius allegatis, nec iidem
" ballivi ad alias libertates
" quales prædictus Willelmus filius
" Willelmi superiorius allegavit
" clamandas seu triandas habent
" modo diem in Curia ista, Con-
" sideratum est quod iidem
" Willelmus filius Adæ, et
" Johannes habeant returnum
" prædictarum clocarum. Et præ-
" dictus Willelmus filius Willelmi
" in misericordia, &c."

³ This report of the case is from L., and C.

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A.D. 1346. market by grant from King John; judgment, since you claimed in virtue of a grant made since time of memory, whether by title of prescription you can maintain this avowry.—*Haveryston*. And, inasmuch as you have not denied that there is a market, the question whether it commenced before time of memory or since is nothing to the purpose, since you have not destroyed the cause of our avowry; judgment, and we pray the return.

*Quare
impedit.*

(63.) § The King brought a *Quare impedit* against the Prior of Bath, and counted, by *Notton*, that it belonged to him to present for the reason that one Maud Chaumflour was seised of the advowson, and held the advowson of King Edward the grandfather of the present King *in capite*, and presented her clerk, one Martin Chaumflour, in the time of the same King, and that this Maud aliened the advowson to one Walter, the Prior's predecessor, which Walter appropriated the same church without license, and therefore the right to present accrued to King Edward the grandfather. And from him *Notton* made the descent to the present King. And so, said *Notton*, it belongs to the King to present.—*Huse*. As to that we tell you that Maud never had anything in the advowson, and that Martin Chaumflour was not admitted on her presentation, and that she did not alienate the advowson to our predecessor; but we and our predecessors have held the church *in proprios usus* from the time of the Conquest to the present.—*Notton*. Whereas you have said that Maud did not alienate the advowson to Walter, your predecessor, you shall not be admitted to that, for we tell you that a fine was levied in the time of King Henry between Maud and your predecessor Walter, by which fine Maud acknowledged the advowson to be the right of your predecessor, as that which he had of her gift (and *Notton* made

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marche par grant le Roi Johan ; jugement, de puis A.D. 1346.
qe vous clamastes par grant fait puis temps de
memore, si par title de prescripcion, &c.—*Har.* Et,
desicomme vous navietz pas dedit qil y ad marche,
fuit ceo comence devant temps de memore ou puis,
nest pas a purpos, quant vous ne destruistes pas
la cause de nostre avowere ; jugement, et prioms
retourn.¹

(63.)² § Le Roi porta *Quare impedit* vers le Priour ^{*Quare impedit.*}
de Bathe, et counta, par *Nottone*, qe a lui appent a [Fitz.,
presenter par la resoun qune Maude Chaumflour³ *Extoppell,*
187.] fut seisi del avoweson, et tint lavoweson del Roi E.
aiel en chief, et presenta soun clerc un S.⁴ en
temps de mesme le Roi, la quele M. aliena lavowesoun
a un W.,⁵ predecessor le Priour, le quel W. saunz
conge mesme la eglise appropria, par quei dreit de
presenter acrust al Roi laiel. Et de luy fit la
descente al Roi qore est. Et issi appent a luy, &c.
—*Huse.* A ceo vous dioms nous qe Maude navoit
unques rienz en lavoweson, ne S. ne fut pas resceu a
son presentement, ne ele naliena pas lavowesoun a
nostre predecessor; mes nous et noz predecessors
avoms tenuz leglise en propre oeps de temps de la
conqueste tanqe en cea.—*Nottone.* La ou vous avez
dit qe Maude nel aliena pas a W. vostre predecessor,
a ceo ne serrez resceu, qar nous vous dioms qe fin
se leva en temps le Roi H. entre M. et W. vostre
predecessor, par quel fine M. conust lavowesoun estre
le dreit vostre predecessor, come ceo qil avoit de

¹ The conclusion of the reports of this case is in Y.B., Mich., 20 Edw. III., No. 107.

² From H., and I. This is another report or one in continuation of Y.B., Easter, 19 Edw. III., No. 42 (pp. 114-119). The record, *Placita de Banco*, Easter, 19

Edw. III., R^o 282, d, is there cited.

³ MSS. of Y.B., Chaunflour.

⁴ Martin Chaumflour according to the record.

⁵ Walter de Aune according to the record.

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A.D. 1346. *propter* of the fine), and we demand judgment whether contrary to the fine to which his predecessor was a party, and by which the gift is proved, you shall be admitted to deny the alienation.—*Moubray*. Our answer is to the effect that we have held the church *in proprios usus* from all time, and the fine which you allege does not in any way disprove that point, and therefore we demand judgment.—*WILLOUGHBY*. You cannot say that you have held the church *in proprios usus* from all time in opposition to the fine by which it is proved that Maud gave to your predecessor; therefore will you say anything else? —*Huse*. Sir, you see plainly how he took for title the statement that Maud aliened the advowson in the time of King Edward the grandfather, and the fine which he alleges was levied in the time of King Henry, by which fine it is supposed that a gift was made previously, and therefore that fine could not prove the same gift of which your count makes mention; and, moreover, even if it could be proved in the fine that the acknowledgment of the gift which was mentioned was by the words of Maud and not by the words of the Prior, that acknowledgment is not on that account strong enough to oust us, who are his successor, from averring the contrary against him.—*WILLOUGHBY*. And will you not say anything else? —*Grene*. We will plead with him, Sir, and we demand judgment, since we have made *propter* of a fine to which his predecessor was a party, and which proves a gift, which fine he has not avoided, whether he shall be admitted to traverse that which is included in the fine.

Dower. (64.) § Roger Petigarde and his wife brought a writ of Dower. The tenant vouched the husband's heir, who was under age. The vouchee appeared on the first day, and warranted, and confessed the defendant's action.—*STOUPORD*. to the defendant.

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soun doun—et myst avant la fine—et demandoms A.D. 1346 jugement si encountre la fine a quei soun predecessor fut partie, par quel le doun est prove, si a dedire cele serretz resceu.—*Moubray*. L'effect de nostre respouns est de ceo qe nous avoms tenuz leglise en propre oeps de tut temps, et la fine qe vous alleggez ne desprove rienz cele point, par quei nous demandoms jugement.—*Wilby*. Vous ne poetz dire qe vous avetz tenu leglise en propre oeps de tut temps encountre la fine par quele est prove qe M. dona a vostre predecessor; par quei voletz autre chose dire?—*Huse*. Sire, vous veietz bien coment il prist pur title qe M. aliena lavowesoun en temps le Roi E. laiel, et la fine qil allegge fut leve en temps le Roi H., par quel est suppose un doun fait avant, par quei cele fine ne pout prover mesme le doun de quei vostre counte fait mencion; et auxi mesq'il poeit en la fine estre prove qe la conissaunce de doun qe fut parle fut la paroule M. et ne mye la parole le Prioir, par quei cele conissaunce nest pas si fort qe nous ouste, qe sumes successour, de lui daverer le contrare.—*Wilby*. Et autre chose ne voletz dire?—*Grene*. Nous pledroms, Sire, ovesqe luy, et demandoms jugement, de puis qe nous avoms mys avant fine par quel son predecessor fut partie, et qe prove un doun, quel fyn il nad pas voide, si a traverser ceo qest compris deinz la fine serretz resceu, &c.¹

(64.)² § Roger Petigarde et sa femme porterent Dowere. brief de Dowere. Le tenant voucha leir³ le baroun, qe ^{[Fitz.,} ^{Jugement.} fut deinz age, qe vient a primer jour, et garranti, et ^{179.]} conust laccion le demandant.—*Stouf.*, al demandant.

¹ After the Prior's plea the record shows nothing but adjournments, which, however, were continued as far as Michaelmas Term in the

37th year of the reign

² From H., and I

³ I., le heir.

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A.D. 1346. Has the heir assets by descent?—[*The defendant.*] Yes, Sir.—STOUFFORD. He is under age, and can well confess the defendant's action, but he cannot render dower by reason of his tender age.—And STOUFFORD gave judgment that the defendant should recover against the heir simply, because the defendant had supposed that the heir had assets. But the infant, because he appeared on the first day, and also because he was under age, was not amerced.

Waste. (65.) § The Earl of Hereford brought his writ of Waste against the Countess of Hereford, and assigned waste in houses, lands, and woods, which she held in dower of his inheritance, that is to say, that she had pulled down a hall, bedchambers, and a kitchen, in the land had dug pits in one acre, and carried off clay, and in the woods had felled oak-trees, ash-trees, and oaklings.—She pleaded that no waste had been committed, &c.—The inquest was taken in the country at *Nisi prius* before KELSHULLE, who now returned the verdict of the jury into the Common Bench. And after he had returned it he caused it to be amended, and inasmuch as the waste was found in a wood, to wit, one hundred oaks, the value of each being, &c., he made an addition, that is to say, that it was found that she had felled trees in divers places in the whole of the wood. The verdict was then to the effect that the houses in respect of which the waste was assigned were burnt, through want of care, by one of the Countess's male-servants, and that she had felled a part of the oaks in respect of which the plaintiff had assigned waste, and with them had built new houses as good as the old houses in the same place in which the old houses had stood; and also that she had dug clay in old pits, in one rood of land, to make the same houses, as well as to repair old houses; and also that she had felled forty oaks of a certain size to enclose the said park; and also

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Ad leir¹ assetz par descente? — [Le demandant.] A.D. 1346
 Sire, oil.—STROUF. Il est deinz age, et put bien conustre laccion le demandant, mes il ne put rendre pur la tendresce de soun age.—Et il agarda qe le demandant recoverast vers leyr *simpliciter*, pur ceo qil avoit suppose qil avoit assetz. Mes lenfaunt, pur ceo qil vient al primer jour, et auxi fut deinz age, ne fut pas amercie, &c.

(65.)¹ § Le Counte de Herford porta soun brief Wast.
 de Wast vers la Countesse de Herford, et assigna [Fitz., Amende-
 wast en mesouns, terres, et bois, queux ele tient en ^{ment, 67;}
 dowere de son heritage, saver abatu une sale,
 chambres, quizine, en terre fowe putees en une
 acre de terre, et arcille enporte, et en bois abatu
 keynes et frenes et cheles.—Ele pleda nulle wast
 fait, &c.—Lenqueste fut pris par le *Nisi prius* en
 pays devant KELS., qe retourna ore en Baunk le
 verdit del enqueste. Et apres qil lavoit retourne il
 le fist amendre, en taunt qe le wast fut trove en
 bois, saver c. keynes, pris de chescun, &c., la fit il
 une adjeccion, saver, qil fut trove qele les avoit
 abatu en divers lieus en tut le bois. Donques fut le
 verdit tiel qe les mesouns des queux le wast fut
 assigne furent ars, pur defaute de garde, par un des
 garsouns la Countesse, et qele avoit abatu partie des
 keynes de quei il ad assigne wast, et par ceux fait
 novels mesouns auxi bons come les aunciens en
 mesme le lieu qe les aunciens mesouns esturent;
 [et auxi qele avoit fowe arcille en aunciens putes,
 en un rode de terre, pur faire mesmes les mesouns,
 et auxi pur redresser aunciens mesouns];² et auxi
 qele avoit abatu xl. keynes de certeyn grossure
 denclore le dit Park; et auxi qele avoit abatu

¹ From H., and I., until other-
 wise stated.

² The words between brackets are
 omitted from I.

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A.D. 1846. that she had felled forty oaks of dead wood, which the jury did not understand to be waste; and also that she had felled forty green oaks, and of them had made charcoal to burn within the same houses for necessary purposes; and also that she had cut eight score oaklings, the value of the whole of them being eight pence; and also that she had felled oaks in divers places in the whole of the wood.—*Birton.* We understand that a Justice of *Nisi prius* cannot amend his record after he has returned it, and particularly in respect of a matter which is of the substance of the verdict; and at first he did not return any words to the effect that oaks were felled in divers places in the whole wood, in which case on such a return the plaintiff would recover only the place wasted; and if the Justice be admitted to amend it, and judgment pass against us, the plaintiff will, in the opinion of some persons, recover the whole wood; therefore we do not understand that you will admit him to amend the return.—*WILLOUGHBY.* Certainly, if his return is not sufficiently full, he can amend it well enough, and that we have often seen; therefore, if you have anything else to say with regard to the verdict, say it.—*Grene.* Willingly, Sir. You see plainly that as to the houses it is found that they are newly constructed to as good value as they were before, and in respect of them no waste can be adjudged. And it is also found that we dug in old pits, which had previously been wasted; and also that what we dug there was for the reconstruction of the new houses which were built in lieu of the old houses, and also for the repair of old houses, which digging for those causes cannot be adjudged any waste. And it is also found that we felled oaks to enclose the park, which it is allowable to do. And we are also discharged with regard to the dead wood, because it appeared to the

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xl. keynes de mort boys, quel enqueste entendi qe ne fut pas wast; et auxi qele avoit abatu xl. keynes vertes, et de ceux fait carbouns dardre deins mesmes les mesouns pur choses necessaries; et auxi qele avoit coupe viii. cheletz pris trestouz de viiid.; et auxi qele avoit abatu keynes en divers places en tut le bois.—*Birtone*. Nous entendoms qe Justice de *Nisi prius* ne poet amendre son recorde apres qil leit¹ retourne, et nomement de chose qest la² substauence du verdit; et a comencement il retourne nulle parole qe les keynes furent abatus en divers lieux³ en tut le bois, en quel cas sur tiel retourne il recovera mes le lieu waste; et sil soit resceu del amendre, si jugement passa countre nous, il recovera, al entente dascuns, tut le bois; par quei nentendoms qe vous luy voillettz resceivere del amendre.—*WILBY*. Certeinement, si son retourn ne soit pas assetz plein, il lamendra assetz bien, et ceo avoms veu sovent; par quei, si vous eietz asqune chose a dire sur le verdit, ditez le.—*Grene*. Sire, volunters. Vous veietz bien quant as mesouns il est trove qils sount novelement faites dauxi bone value come ils furent avant, de queux nul wast ne poet estre ajugge. Et auxi il est trove qe fowames en auncienes putes queux furent wastes avant; et auxi ceo qe nous fowames illoeques fust en amendement de les novels mesouns qe furent faites en lieu daunciens mesouns, et auxi en repareiller des auncienes mesouns, quel fowere par celes causes nul wast poet estre ajugge. Et auxi est trove qe nous abatimes keynes pur enclore le Park, qest congeable a faire. Et auxi del mort bois nous sumes descharge, pur ceo qil sembloit a ceux del

¹ I., est.² I., del.³ H., places.

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A.D. 1346. jurors that this was not waste. And with regard also to the trees which were felled for charcoal to burn within the houses for necessary purposes, that felling is allowable by law for our support. And with regard to the finding that we felled eight score oaks in divers places in the whole wood that is repugnant, because, if they are felled in divers places, it must be supposed that the whole wood is not felled, and the rest of the statement is to the effect that the whole wood is felled; therefore you cannot render any judgment on this verdict.—*Notton*. As to the houses it is found that they were burnt through want of proper care, and so that is waste; and, even though you have built new houses, the waste which was previously committed shall not on that account be committed with impunity, and particularly when they were built with trees growing in the same tenancy. And, as to the land, the digging in the old pits is waste, even though you did not begin it, because, if you had dug anew in a new place for an allowable purpose, and had afterwards dug and sold the clay, the last digging would be adjudged waste even though the first would not be so; so also in this case, even though the pits were old, the digging which you did for the new houses was not allowable. And with regard also to the fact that you felled green oaks to enclose the park, you did that which was not allowable, since there was dead wood available. And, moreover, you cannot fell trees to make charcoal to burn within the houses, because dead wood for firewood would suffice, without making charcoal, for necessary purposes.—*Grene*. And, moreover, as to the felling of eight score oaklings, the value of which was stated to be a total of eight pence, there cannot be said to be waste of such a value, and particularly since it must be supposed that these oaklings were underwood,

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enqueste qe ceo ne fut pas wast. Et auxi des A.D. 1346.
 arbres qe furent abatuz pur carbouns pur ardre
 deinz les mesouns. pur choses necessaries cest
 avowable par la ley pur la sustenaunce de nous.
 Et de ceo qest trove qe nous abatimes viii. keynes
 en divers places en tut le bois, cest repugnant, qar,
 sils soient abatuz en divers places, il est a supposer
 qe tut le bois nest pas abatu, et le remenant est
 del entent qe tut le bois est abatu; par quei sur
 cest verdit vous ne poetz nul jugement de ceo
 rendre.—*Nottone*. Quant as mesouns il est trove
 qen defaute de garde ils furent ars, et issi ceo est
 wast; et mesqe vous eietz¹ fait novels, par taunt
 ne serra pas le wast fait avant despuny, et nome-
 ment quant ils furent faites par les arbres cressauntz
 en mesme la tenance. Et, quant a la terre, le
 fowere en les auncienes putees est wast, mesqe vous
 le comenceastes pas, qar si vous ussez fowe en une
 novelle place de novelle pur chose congeable, et apres
 ussez fowe et le vendu, le drein fowere serra ajugge
 wast mesqe le primer ne serra pas; et auxi en ceo
 cas, mesqe les putees furent aunciens, le fowere qe
 vous faitez a les novels mesouns ne fut pas
 congeable. Et auxi de ceo qe vous abatistes vertes
 keynes pur enclore, puis qe mort boys il y ad,
 vous facez² chose nient congeable. Et auxi vous ne
 poietz abatre arbres pur faire carbouns darder deins
 les mesouns, puis qe mort boys pur ardre, saunz
 carbouns faire, pur choses necessaries purra suffire.—
Grene. Et auxi quant al abatement de viii. chelez,
 la value de queux fut assumme a viii deners, de
 quel pris wast ne poet estre dit, et nomement puis
 qe ceo est a supposer qe cest soutz boys, qar

¹ I., aviez.² I., faites

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A.D. 1346. because otherwise they would not be of so little value.

—*Notton*. If the whole wood was felled in the time of your husband, and trees began to grow anew, if you felled them you committed waste; and it has not been found that there was high wood, and that this was underwood.—Therefore *SHARSHULLE* said:—If there be high wood, it cannot be said that to fell underwood is waste; but, if there is not any high wood, it is waste; and in this case it has not been enquired whether the one or the other is the fact, wherefore, &c. And it seems that trees of so little value cannot fall within an action of Waste.—*Moubray*. See here the proof that it can be so, for if a woman holds in dower lands in which young oaklings are growing, and puts into the land her beasts which destroy the oaklings by trampling on them, though the whole of them may not be worth two pence to sell, it will be adjudged waste; and for the same reason in this case the value of the trees does not constitute the waste, but the disherison which is effected.—*Grene*. It is true that you will have an action of Waste in that case, but you will have to assign the waste in that by the trampling of her beasts she destroyed, &c., and not to assign it in that she felled the trees, because on such a count you will take nothing on such matter, and therefore in virtue of this waste, which you have assigned as in the cutting of trees which do not bear sufficient value, you will not maintain the action; therefore, &c.—*Notton*. With regard to what has been found to have been felled in the whole wood, which is clear, we pray at least judgment as to that, and our damages.—*WILLOUGHBY*. You will not have your judgment by parcels, unless you will waive your judgment as to the rest. And since we are not advised whether waste shall be adjudged in the houses notwithstanding the rebuilding, or not, nor yet with regard to the other points, therefore observe your days, &c.

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autrement ils ne serront de si petit value.—*Nottone*. A.D. 1346.

Si tut le bois¹ fut abatu en temps vostre baron,² et comencea de crestre de novel, si les abatez vous facetz wast; et il nest pas trove qil y ad haut boys, et qe ceo est soutz bois.—Par quei Schs. Sil y eit haut bois, homme ne poet dire qe de abatre soutz bois est wast; et sil ny ad pas il est; et ore nest il pas enquis le quel il soit un ou autre, par quei, &c. Et il semble qe arbres de si petite value ne pount chere en accion de Wast.—*Moubray*. Veietz cy la prove qe si, qar si un femme tiegne en dowere terre en quel jeofnes cheletz sont cressauntz, et mette ses bestez en la terre qe destruent les cheletz par groussure, mesqe eux touz ne vaillent a vendre ij.d., il serra ajuge wast; et par mesme la resoun en ceo cas la value des arbres ne fait pas le wast, mes la desheritance qest fait.—*Grene*. Il est verite qe vous averetz accion de Wast en cel cas, mes vous assigneretz le wast qe par groussure de ses bestes ele destruit, &c., et ne mye dassigner quele les abati, qar sur tiel counte vous ne prendrez rienz sur tiele matere, par quei en ceste wast qe vous avetz assigne en le couper des arbres qe ne portent pas la value vous nel meyntendrez pas; par quei, &c.—*Nottone*. De ceo qest trove abatu en tut le boys, qest cler, nous prioms au meyns jugement de cele, et noz damages.—*WILBY*. Vous naveretz pas vostre jugement par parceles, si vous ne voletz weyver vostre jugement del remenant. Et pur ceo qe nous ne sumes pas avisetz le quel wast serra ajugge en les mesouns nent countreestaunt le novel fesaunce, ou nent, ne en les autres pointz auxi, par quei gardez voz jours, &c.

¹ The words le bois are omitted | ²I., vostre temps, instead of from I. | temps vostre baron.

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A.D. 1346. § Waste between the Earl of Hereford, plaintiff,
Waste. and the Countess of Hereford, defendant.—*Grene*. It is found by verdict that she dug, in old pits, clay for the construction of new houses, and the repair of old houses, which cannot sound in waste.—*Notton*. Digging in old pits is as much waste as making new pits, and since this was done for the construction of new houses, which are not necessaries, it must be adjudged waste.—*Grene*. It is found also that some houses were burnt by misfortune, and rebuilt as well as those which had previously stood there, and that cannot be called waste.—*Notton*. It is found that they were burnt through want of proper care, and so it is waste. And it is not found that you have constructed new houses with your own timber, but it is found that you felled the woods of the manor for their construction, and that is waste.—*WILLOUGHBY*. The houses and the woods as well cannot be adjudged to be waste in this case.—*Grene*. As to one wood it is found that we felled, in one hundred acres of wood, twenty-six oaks, whereof a moiety was dry wood, and that for charcoal to burn in the manor, which is necessary estovers, in respect of which waste cannot be assigned, nor in so large a wood can the rest be said to be waste.—*Notton*. It is found that you cut them throughout the whole of the wood, and so it is waste throughout; and it was never law that you could avow the felling of oaks for charcoal.—*SHARSHULLE*. And if there was not any underwood, do you think she might not fell oaks to burn? as meaning to say that she might. And charcoal is a necessary, and she could not have it except from the great trees.—*Notton*. I do not think so, and in this case it is found that there was underwood.—*Grene*. So also with respect to three hundred oaklings felled in another wood it is found that twenty of them were

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§ Wast¹ entre le Counte de Hereforde, plaintif, et A.D. 1346.
la Countesse de Hereforde, defendant.—*Grene*. Il Wast.
est trove par verdict qele fowa, en aunciens putes,
arsille pur novelz mesouns faire, et veilles² reparrailler,
quele chose [ne] poet soner en wast.—*Nottone*. Fower
en aunciens putes est auxi bien wast comme de
faire novelz putes, et quant ceo fut fait pur faire
novelz mesouns, qe ne sount pas necessaries, ceo
covient estre ajuge wast.—*Grene*. Il est trove auxint
qe asquns mesouns par infortune furent ars, et tant
bien edifietz comme les autres furent, qe ne poet
estre dit wast.—*Nottone*. Il est trove qe par defaut
de garde eles furent ars, issint qe cest wast. Et il
nest pas trove qe vous avetz fait de vostre merym
demene novelz mesouns, mes il est trove qe vous
abatistes les boys del maner pur les faire, qest wast.
—*WILBY*. Homme ne poet pas ajugger les mesouns
et les boys auxint estre wast en cel cas.—*Grene*.
Quant a un boys il est trove qe nous abatismes, en
c. acres de boys, xxvj keynes, dount la moite fuit
seke, et ceo pur carbouns ardre en le maner, quele
chose est estover necessarie, de qai wast ne poet
estre assigne, ne le remenant en si grand boys ne
poet estre dit wast.—*Nottone*. Il est trove qe vous
les coupastes par tut les boys, issint par tut est il
wast; et pur carbouns ne fuit ceo unques ley qe vous
avoweret dabatre des keynes.—*SCHAR*. Et si ny avoit
pas south boys, quidetz vous qele nabatereit pas
keynes pur ardre? *quasi diceret sic*. Et carbouns sount
necessaries, et ceo ne poait ele aver forqe des grosses
fuytes.—*Nottone*. Ceo ne crey jeo pas, et icy est il
trove qil y avoit south boys.—*Grene*. Auxi de keynettes
ccc³ abatuz en un autre boys trove est qe xx ne

¹ This report of the case is from L., and C. | ² L., illoques. | ³ L., tut, instead of ccc.

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A.D. 1346. not worth more than a penny, and so they were of so little value that an action respecting them could not be given by way of Trespass, nor consequently can the felling of them sound in waste, because they can be nothing but underwood.—*Notton*. Out of oaklings come and grow great oaks, and from your statement it would follow that the saplings of oaks might always be cut down, so that there would never be any wood at all.—*Moubray, ad idem*. If I have in a close oak-saplings growing, and I lease the close for term of life, or a woman holds it in dower, and they put beasts into the close, and trample down and depasture the saplings, is not that waste? And if they have grown higher so that they cannot be trampled down, will not the cutting of them be adjudged waste? — *SHARSHULLE*. If there is other wood as covert above, that which is below is underwood, but, if there is not any such wood above, it is waste.—They were adjourned.

Right of
advowson. (66.) § The King brought his writ of Right of advowson against the Prior of the Hospital of St. John of Jerusalem in England, and William de Langeforde, and demanded the advowson of a fourth part of the tithes of the church of Saint Dunstan in the West in the suburb of London. William made default after default. The Prior said that he was tenant of the whole, *absque hoc* that William had anything, and prayed that the King might count against him. And because the King heretofore counted

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valent qun dener, et issint de si petit value de qai A.D. 1346.
 accion ne poet estre done par voie de Trans, *nec per consequens* soner en wast, qar ceo ne poet estre
 forqe south boys.—*Nottone*. De keynettes venent et
 cressent grosses keynes, et de vostre dit ensuereit qe
 homme abatereit touz jours les launces des keynes
 qe homme navereit jammes boys.—*Moubray, ad idem*.
 Si jay¹ en un clos² launces des keynes cressautes,
 et jeo les lesse a terme de vie, ou femme les tient
 en dowere, et ils mettent einz bestes, et les
 debrusent et pasturent, nest ceo wast? Et, sils soient
 plus haut crues qils ne poient estre bruses, ne serra
 le couper deux³ ajuge wast?—*SCHAR*. Sil y eit autre
 covert de boys paramount ceo⁴ south boys, mes sil
 ny ad pas ceo est wast.—*Adjournantur*.⁵

(66.)⁶ § Le Roi porta son brief de Dreit davowesoun Dreit
 vers le Priour del Hospital⁸ de Seynt Johan de davowe-
 Jerusalem en Engletere, et William de Langeforde, [Fitz.,
 et demanda lavowesoun de la quarte partie de dismes^{15.]} Langeforde,
 del eglise de Seynt Dunstone le West en le suburbe
 de Loundres. William fist defaute apres defaute.
 Le Priour dit qil fut tenant del enter, saunz ceo qe
 William rienz avoit, et pria qe le Roi countast vers
 luy. Et pur ceo qe le Roi counta autrefoith vers

¹ L., jeo ay.Langeforde, knight, and the Prior
 of the Hospital of St. John of² L., chose.Jerusalem in England, to answer
 "de placito advocationis quartæ³ C., de eux.

"partis decimaru[m] ecclesie Sancti

⁴ C., ceo nest pas. In L. there
 is an erasure and a blank.
 The passage appears to be
 corrupt.

"Dunstani West in suburbio

⁵ See Y.B., Mich., 20 Edw. III.,
 No. 33.

"Londoniarum, quam clamat ut

⁶ From H., and I., until other-
 wise stated, but corrected by the
 record, *Placita de Banco*, Easter,
 20 Edw. III., R^o 373, d. It there
 appears that the action was brought
 by the King against William de

"jus ipsius domini Regis per breve

"de Recto de advocatione, &c."

For the beginning of the case, see
 Y.B., Trin., 19 Edw. III., No. 12

(pp. 150-152).

⁷ davowesoun is from I. alone.⁸ I., Ospital.

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A.D. 1346. against them both, at which time they had view, and the count was entered, he was put to answer without having a new count. Therefore he denied the words, by *Birton*, and prayed leave to imparl.—*Thorpe*. You are not in a position to imparl, because you said that you were tenant of the whole, and were ready to answer with respect to the whole, and therefore you ought to be ready, just as a wife would be who had been admitted to defend by reason of the default of her husband; and, inasmuch as you do not answer, we demand judgment.—*SHARSHULLE*. Certainly we cannot give you leave to imparl, if the King's Serjeants are not willing to allow it.—Therefore *Birton* denied tort, and force, and the King's right absolutely, and the seisin of Edward the King's father, of whose seisin he had counted, as of fee and right, of that which he demands as the advowson of a fourth part of the tithes of the church of St. Dunstan, which (said *Birton*) we hold as the advowson of a third part of the church of Our Lady of the New Temple, and the Prior puts himself on God and a jury, in lieu of the Grand Assise of our Lord the King, as to whether he has the greater right to hold the advowson of a fourth part of the tithes of the church of St. Dunstan as the advowson of a third part of the tithes of the church of

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eux ij, a quel temps ils avoient la vewe, quel counte A.D. 1346.
 fut entre, il fut mys a respondre saunz aver novel
 counte.¹ Par quei il defendi les paroles, par *Birtone*,
 et pria conge denparler.—*Thorpe*. Vous nestes pas
 en cas denparler, qar vous deistes qe vous futes
 tenant del enter, et prest fustes a respondre del
 enter, par quei vous deveretTZ estre prest, come serra
 femme qest resceu par la defaute soun baroun; et
 de ceo qe vous ne responez pas nous demandoms
 jugement.—*SCHARS*. Certeynement nous ne vous
 poums doner conge denparler, si les serjaunts le Roi
 ne voillent suffrer.—Par quei *Birtone* defendi tort, et
 force, et le dreit le Roi tut attrenche, et la seisine
 Edward son pere, de q̄i seisine il ad counte, tut
 autre de fee et de dreit, de cea qil demande come
 lavowesoun de quarte partie des dismes del eglise de
 Seynt Dunstone, quel nous tenoms come lavowesoun
 de la terce partie del eglise de Nostre Dame de
 Novel Temple, et se met en Dieu et en la jure, en
 lieu de graunde assise nostre seignur le Roi, le quel
 il ad meur dreit a tenir lavowesoun de quarte
 partie des dismes del eglise de Seynt Dunston come
 lavowesoun de la terce partie des dismes del eglise

¹ According to the roll William de Langeford did make default after appearance, and after the count, as below, had been entered. Seisin was prayed on the King's behalf. “Et super hoc prædictus Prior venit, et dicit quod ipse est tenens de integro prædictæ advocationis quartæ partis decimarum, et petit quod ipse admittatur ad respondendum domino Regi de integro, &c., et admittitur.”

The count was then repeated on the King's behalf, “quod quidam dominus Rex Angliæ, pater domini Regis nunc, fuit seisisitus de

“advocatione integra ecclesiæ prædictæ ut de feodo et jure, et ad eandem ecclesiam præsentavit quendam Robertum le Boor, clericum suum, qui quidem cleribus, obventionibus, et aliis, ad valentiam, &c., tempore ejusdem Regis Edwardi patris, &c. Et de ipso Edwardo Rege patre, &c., descendit jus advocationis quartæ partis prædictæ domino Regi nunc ut filio et heredi, &c., qui nunc petit, &c. Et hoc paratus est verificare pro domino Rege, &c.”

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A.D. 1346. Our Lady of the New Temple as his right and the right of his Hospital aforesaid, as he holds it, or the King to have it as the advowson of a fourth part of the tithes of the church of St. Dunstan, as he demands.—*Thorpe*. Why will you not tender a half-mark for the time?—And this he said because in another plea it was said by some that one shall tender a half-mark for the King as against any other person.—But at last they agreed that one will never tender it as against the King, and that one will never have final judgment against the King.—And in the end *Thorpe* said:—Let the mise stand.—And a day of grace was given.

Right. § The King brought a Right of Advowson, in respect of the fourth part of the tithes of the church of St. Dunstan in the West in the Suburb of London, against the Master of the Hospital of St. John, and William Langeforde, knight. And at the *Cape* William made default, and thereupon the Master said that William had nothing, but that the Master was tenant ready to answer. And he denied tort and force, and the right, &c., absolutely, and the seisin of the King's ancestor, Edward by name, heretofore King of England, father of our Lord the King that now is, whom may

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Nostre Dame de Novel Temple come son dreit et A.D. 1346.
 le dreit son hospital avantdit, sicome il tient, ou le
 Roi a aver le come lavowesoun de la quarte partie
 de dismes del eglise de Seynt Dunstone, come il
 demande.¹—*Thorpe*. Pur quei ne voletz tendre demi
 mark pur le temps?—Et ceo dist il pur ceo qen
 un autre ple fut dit par asquns qomme² tendra
 demi mark pur le temps pur le Roi come vers
 autre personne.—Mes a dreyn ils assentirent qil ne
 tendra jammes vers le Roi, ne qe homme navera
 pas jugement final vers le Roi.—Et a dreyn *Thorpe*
 dit:—Estoise la mise.—Et jour de grace done.³

§ Le⁴ Roi porta brief de Dreit davowesoun, de la Dreit.
 quarte partie des dismes del eglise de Seint Dunstan
 West en le suburbe de Loundres, vers le Mestre del
 Hospital de Seint Johan, et W. Langforde, chivaler.
 Et al *Cape* fist defaute, par qai le Mestre dit qil
 navoit rienz, mes il est tenant prest a responce.
 Et defendi tort et force, et le dreit, &c., tut atrenche,
 et la seisiné son auncestre, E. par noun, jadys Roi
 Dengleterre, pere nostre seignur le Roi qore est, qui

¹ The Prior's plea was, according to the record, "quod, cum dominus Rex petat versus eum prædictam advocationem quartæ partis decimorum ecclesiæ Sancti Dunstani West in suburbio Londoniarum, ipse Prior tenet ad advocationem illam ut advocationem tertiarum ecclesiæ beatae Mariæ Novi Templi in suburbio Londoniarum, ut de jure Hospitalis sui prædicti. Et inde defendit jus suum quando, &c., et seisinam prædicti Edwardi Regis patris domini Regis nunc, de ejus seisina, &c., et totum, &c. Et ponit se in juratam loco magna assise domini Regis. Et petit recognitionem fieri utrum ipse majus jus habeat tenendi

"advocationem illam ut advocationem tertiarum ecclesiæ beatae Mariæ prædictæ ut de jure Hospitalis sui prædicti, sicut eam tenet, an dominus Rex, &c."

² I., qe homme.

³ According to the roll, "Ideo præceptum est Vicecomiti quod venire faciat hic in Octabis Sancti Johannis Baptiste, tam prece prædicti Johannis qui sequitur, &c., quam prece prædicti Prioris xij, &c."

There were subsequent adjournments, but nothing further appears on the roll.

⁴ This report of the case is from L. and C.

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A.D. 1346. God preserve, of whose seisin as of fee and right he had counted, particularly inasmuch as our Lord the King demands an advowson of a fourth part of the tithes of the church of St. Dunstan, &c., which the said Prior holds as the advowson of a third part of the tithes of the church of Our Lady of the New Temple of the suburb aforesaid, as the right of his Hospital aforesaid, and puts himself on God and the Grand Jury, in lieu of the Grand Assise of our Lord the King, whether he has a greater right to hold that which our Lord the King demands as the advowson of a fourth part of the tithes which the aforesaid Prior holds as the advowson of a third part of the tithes, &c., as his right and the right of his Hospital aforesaid, as he holds it, or our Lord the King to have the advowson aforesaid which he demands as the advowson of the fourth part, &c., as his right, as he demands.—And the inise stood, and a Day of Grace was given at the request of the King's attorney.—And note that final judgment shall not be given against the King, but shall be given for him. And because the form is not that another person shall put himself on the Grand Assise when the King is demandant, the King shall not tender suit nor deraignment on a writ of Right, but it shall be said only that one is ready to aver the fact on the King's behalf.

Dower. (67.) § The Countess of Salisbury brought her writ of Dower against John Inge, who vouched to warrant William son and heir of William Montagu Earl of Salisbury; and process was made against him as against William son and heir of William "*de Monte acuto, Comes Sarum,*" whereas in the voucher the

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Dieux garde, de qi seisine il ad counte come de fee A.D. 1346.
 et dreit, nomement de ceo qe nostre seignur le Roi
 demande une avowesoun de la qarte partie des dismes
 del eglise de Seint Dunstan, &c., quel le dit Prior
 tient come lavowesoun de la terce partie des dismes
 del eglise de nostre Dame de Novelle Temple del
 suburbe avantdit, comme le dreit de soun Hospital
 avantdit, et soy mette en Dieux et la grant Jure, en
 lieu de grant Assise nostre seignur le Roi, [le] quel
 il ad meur dreit a tener ceo qe nostre seignur le
 Roi demande come lavowesoun de la quarte partie
 des dismes quel lavantdit Prior tient comme
 lavoesoun de la terce partie des dismes, &c., comme
 soun¹ dreit et le dreit de soun Hospital avantdit,
 sicomme il le tient, ou nostre seignur le Roi daver
 lavowesoun avantdit quele il demande comme
 lavowesoun de la quarte partie, &c., comme soun
 dreit, sicomme il demande.—Et la mise estut, et
 jour de grace done a la requeste lattourne le Roi.
 —*Et nota qe jugement final² se fra pas countre le Roy, mes pur lui serra. Et pur ceo qe la fourme n'est pas qautre personne soy mettra en grande Assise ou le Roi demande, ne le Roi ne tendra pas en brief de Dreit suite, ne deren,³ mes soulement prest daverer le, pur le Roy.*⁴

(67.)⁵ § La Countesse de Salebirs porta soun brief de Dowere.
 Dowere vers Johan Inge, qe voucha a garrant William Fitz, et heir William Mountagu Counte de Salebirs; *Discon-*
tinuans divers. 7.]
 et proces fut fait vers lui come vers William fitz et
 heir William *de Monte acuto, Comes⁶ Sarum*, la ou en

¹ C., sur.² C., fynalle.³ L., drein pas.⁴ See further Y.B., Mich., 20 Edw. III., No. 116.⁵ From H., and I., until otherwise stated. The report is in continua-

tion of Y.B., Mich., 19 Edw. III.,

No. 74, the record being *Placita de**Banco*. Mich., 19 Edw. III., R^o 495.⁶ This is not in agreement with the record. See Y.B., Trin.-

Mich., 19 Edw. III., p. 457, note 4.

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A.D. 1346. youchee was not supposed to be Earl, but his father, as whose heir he was vouched.—*Sadelyngstanes*. You have here William, who tells you that he is under age, and that his lands are in the wardship of the King, and, because he is vouched as being out of wardship, we demand judgment of this voucher. And *Sadelyngstanes* produced a writ from the Chancery by which the King recorded that, after the death of the vouchee's father, the lands were seized into the King's hand, and still remained there.—*Birton*. Although the King records that, after the death of the vouchee's father, the lands were seized into his hand, we will aver that at the time of the voucher his lands were not in the King's wardship. And if, Sir, after the death of William the father, the son had entered and held the land two or three years, although after the King had seized the land the vouchee would have had to answer to the King for the issues, still, if we vouched at a time at which he held the land himself, no default can be adjudged in us, because it was not for us to be aware of the right which the King had to seize.—*WILLOUGHBY*. The King testifies the reverse of that of which you tender averment; therefore against that testification you will not be allowed to say the contrary; therefore see whether you have anything else to say.—*Sadelyngstanes*. Sir, William de Montagu was vouched, and process was made against William de *Monte acuto*; and, moreover, in the process he is made Earl, and in the voucher his father is so made, and not he, and so this process is discontinued; therefore on this process you cannot render any judgment.—And because *Monte acuto* was Latin, and Montagu was the equivalent in French, and also notwithstanding the other variance with regard to the description of Earl, they adjudged the process good.—*Birton*. We pray that the vouchee who

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le voucher le vouche ne fut pas suppose Counte, mes A.D. 1346.
 son pere, come q̄i heir il fut vouche.—*Sadel*. Vous
 avetz ycy William, q̄e vous dit q̄il est deinz age, et
 ses terres en la garde le Roi, et de ceo q̄il est
 vouche hors de garde nous demandoms jugement
 de ceo voucher. Et mist avant brief de la Chaun-
 cellerie par quel le Roi recorda q̄e, apres la mort
 son pere, les terres furent seisiz en sa mayn, et
 unqore sunt.¹—*Birtone*. Coment q̄e le Roi recorde
 q̄e, apres la mort son pere, les terres furent seisiz
 en sa mayn, nous voloms averer q̄e al temps de
 voucher ses terres ne furent pas en la garde le
 Roi. Et, Sire, si apres la mort W. le pere, le fitz
 ust entre et tenu la terre ij aunz ou iij, coment q̄e
 apres q̄e le Roi leit seisi il respongdra des issues
 al Roi, unqore, si nous vouchames en temps q̄il tient
 la terre mesme, nul defaute put estre ajuge en
 nous, qar il ne fut pas a nous a conustre le dreit
 q̄e le Roi avoit a seisir.—*Wilby*. Le Roi tesmoigne
 le revers de ceo q̄e vous tendez daverer; par quei
 encoultre cel tesmoignance naveretz pas a dire le
 contrare; par quei veietz si vous eietz autre chose
 a dire.—*Sadel*.² Sire, William de Mountagu fut
 vouche, et proces est fait vers William de *Monte acuto*; et auxi en le proces est il fait Counte, et en
 le voucher son pere, et nent lui, et issi ceste proces
 discontinue; par quei sur ceste proces ne poetz nul
 jugement rendre.—Et pur ceo q̄e *Monte acuto* fut
 Latine, et lautre Fraunceys, et auxi nent countre-
 esteaunt lautre variaunce del noun de Counte ils
 ajuggerent le proces bon.—*Birtone*. Nous prioms
 q̄e le vouche soit demande q̄e respond par

¹ This agrees with the record. | ² MSS. of Y.B., *Birtone*.
 See Y.B., as above.

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A.D. 1346. answers by guardian be called.—And in the warrant of the guardian the words “son and heir” were omitted, whereas the vouchee was vouched as son and heir.—*Birton.* Sir, you have not now here any party who can counterplead this warranty, and therefore we pray process against the vouchee since the warrant does not agree with our voucher.—*SHARSHULLE.* It is not in the case of warrant of a guardian the same as in the case of a warrant of attorney: for a person of full age who appoints an attorney has to appoint him at his own peril; but a guardian for one who is under age is allowed by the Court, and, in case the words are not in agreement with that which they ought to be, the default is in the Court, and shall be redressed by the Court, and shall not be to the damage of the infant as if he were of age.—Therefore the COURT caused the warrant of the guardian to be amended so as to be in accordance with the voucher.—And afterwards WILLOUGHBY gave judgment, because it was of record that the lands were in the King’s wardship at the time of the voucher, and the heir was vouched as being out of wardship, and therefore the voucher failed, that the defendant should therefore recover her dower against the tenant, and that the vouchee should be quit of the warranty, &c.

Dower.

§ The Countess of Salisbury heretofore brought a writ of Dower against John Inge, who vouched William son and heir of William de Montagu Earl of Salisbury, then under age, as being out of wardship of anyone. And process was made against him as son and heir of William—“*jilius et heres Willielmi de Monte acuto nuper Comes Sarum.*” And discontinuance was alleged by reason of the diversity of surname. But because the meaning of de Montagu is the same as that of *de Monte acuto*, and also because a writ came to proceed notwithstanding the

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gardeyn.—Et en la garrant del gardeyn fitz et heir A.D. 1346.
 fut entrelesse, la ou il fut en tiele manere vouche. [Fitz.,
Birtone. Sire, ore navetz pas partie qe purra ceste ^{Amende-}
*ment, 66.]*¹ garrantie countrepleder, par quei nous prioms proces
 vers luy puis qe le garrant nacorde pas a nostre
 voucher.—SCHARS. Il nest pas issi de garrant de
 gardeyn come dattourne; qar homme de pleine age
 qe fait attourne il le fra mesme a soun peril; mes
 gardeyn pur un deinz age est graunte par Court,
 et, en cas qil ne soit pas acordaunt a ceo qe il
 dust estre, la defaute est en Court qe serra par
 Court redresse, et *ng mye* en damage del enfant
 come sil fut dage.—Par quei la Court fist amendre
 la garrant del gardeyn acordaunt al voucher.—Et
 puis WILBY. agarda, pur ceo qil fut de record qe
 ses terres furent adonques en la garde le Roi, et il
 fut vouche come hors de garde, et par taunt failli
 de son voucher, par quei la demandante recoverast
 son dower vers le tenant, et le vouche quite de la
 garrantie, &c.

§ La² Countesse de Sarum autrefoith porta brief Dowere.
 de Dowere vers Johan Inge, qe voucha W. fitz et heir
 W. de Mountagu Count de Sarum, deinz age, hors de
 chesquny garde. Et proces fuit fait vers luy come fitz
 et heir W.—*filius et heres Willelmi de Monte acuto*
nuper³ Comes³ Sarum. Et discontinuaunce fuit allegge
 pur la diversite de surnoun. Pur ceo qe cest dun
 mesme entendement et lun et autre, et auxint brief
 vint *non obstante variatione illa quod procedatis, &c.*

¹ In Fitzherbert's *Abridgment*
 the note is placed in Michaelmas
 Term, 19 Edw. III.

² This report of the case is from
 L., and C.
³ Sic in MSS. of Y.B.

No. 68.

A.D. 1346. variance, the process was adjudged to be good; therefore, &c.—HILLARY. We find in the roll that heretofore the vouchee took exception to this voucher on the ground that he was in the King's wardship, and was vouched as being out of wardship, to which it was replied that on the day of the voucher he was out of the wardship of anyone, and thereupon the vouchee produced a writ recording that he was in wardship. And, because the writ did not testify that he had been in wardship the whole time since the death of his ancestor, it appeared that the writ did not oust the tenant from the averment, and therefore the vouchee sued another writ reciting that he had been in wardship the whole time since the death of his ancestor, and it assigned in particular that on the day of his ancestor's death he was in the wardship of the King, and so the King's writ and his record ousted the tenant from the averment that the vouchee was out of the wardship of anyone, &c.—BIRTON. That does not seem to be so, for even though it be the fact that the King is in law seised of the wardship during the whole time, because he is answered as to the issues during the whole time, nevertheless a stranger who has to vouch cannot know the fact except by some outward sign, that is to say, when the King is seised in fact, and therefore the writ does not oust from the averment.—Nevertheless WILLOUGHBY awarded seisin, &c.

Annuity. (68.) § A Prior brought a writ of Annuity against a vicar, and counted, by *Mutlow*, that, on the appropriation of the church which the Prior's predecessor made, and on the ordinance touching the vicarage, the Ordinary ordained that there should be a certain portion of the tithes for the vicarage, and that for those tithes the vicar should pay to the Prior's predecessor and his successors

No. 68.

si fuit le proces agarde boun; par qai, &c.—HILL. A.D. 1346.

Nous trovoms en roulle qautrefoith le vouche challengea ceo voucher pur ceo qil fuit en la garde le Roi, et fuit vouche hors de garde, a qai fuit replie qe jour de voucher il fuit hors de chesquny garde, et sur ceo le vouche mist avant brief recordant¹ qil estoit en garde. Et, pur ceo qe ceo ne tesmoigna pas qe de tut temps puis la mort soun auncestre il fuit en garde, si sembloit qe le brief ne ousta pas le tenant del averement, par qai apres il suyt autre brief reherceaunt qe de tut temps puis la mort soun auncestre, et assigna qe al jour del moriaunt soun auncestre en certain il fuit en garde le Roi, et issint le brief le Roi et soun recorde ouste le tenant del averement qe hors de chesquny garde, &c.—Birtone. Ceo ne semble il pas, qar, tut soit il qe le Roy en ley est tut temps seisi de la garde, pur ceo qil est respondu des issues de tut temps, nepurqant estraunge personne qest a voucher ne poet conustre fors le fait dehors, saver, quant le Roi seisi en fait, par qai par le brief nest pas ouste del averement.—Non obstante, WILEY. agarde seisine, &c.

(68.)² § Un Prior porta brief Dannuite vers un Annuite. Vikere, et counta, par *Mutl.*, qe sur lappropriacion del eglise qe le predecessor le Priour fist,³ et sur lordinaunce de la vicare, Lordiner ordina⁴ un certain porcion de dismes a la vicare, et pur ceux dismes le vikere paiereit a son predecessor et a ses successors

¹ recordant is omitted from L.

² From H., apd I. The report is in continuation of Y.B., Hilary, 20 Edw. III., No. 16 (the Prior of Coventry r. John de Holand, vicar of the church of the Holy Trinity

of Coventry). See above, pp.66-72.

The record there cited is *Placita de Banco*, Hil., 20 Edw. III., R^o 107, d.

³ fut is omitted from I.

⁴ I., ordeyna.

No. 69.

A.D. 1346. this annuity, of which annuity that predecessor and the Prior's other predecessors were seised until six months before the purchase of the writ.—*Grene*. We tell you that neither the person whom you suppose to have been a party to the ordinance nor your other predecessors were seised as you have counted; ready, &c.—*Mutlow*. Ready, &c., that our predecessor who was a party to the ordinance was seised; therefore we have no need to answer as to the non-seisin of the others.—*Thorpe*. And we demand judgment since the seisin of all is supposed by your count, and we have traversed those seisins, and you reply in maintenance of one only, and not of the others, and so the others are traversed by us, and our traverse is not denied by you, and therefore the contrary of your count must be held as not denied by you, and therefore we demand judgment of the count.—*WILLOUGHBY*. Then you refuse the averment which he tenders to you touching the seisin of his predecessor, who was a party to the ordinance; and even though he had in his count spoken only of that seisin it would be sufficient for him; therefore it is sufficient for him to maintain that seisin.—*Thorpe*. Sir, even though he might have maintained his count by one seisin, yet, since he has assigned divers seisins, he must maintain the whole of them, and otherwise he has wrongly taken his count, and that is his own fault.—*SHARSHULLE*. You have said that his predecessors were not seised, and he says that one was seised, and therefore you are at a traverse on his seisin; therefore we shall take the issue on that point touching the seisin, without having regard to the others.—And so he did.

Deceit.

(69.) § A husband and his wife lost by default what was right of the wife; and after the husband's death the wife prayed a writ of Deceit.—

No. 69.

ceste annuite, de quele annuite cel predecessor fut A.D. 1346.
 seisi et ses autres predecessours tanqe vj. moys
 avant le brief purchace.—*Grene*. Nous vous dioms
 qe celi qe vous supposez estre partie al ordinaunce
 ne voz autres predecessours ne furent pas seisiz
 come vous avietz counte; prest, &c.—*Mutl*. Qe
 nostre predecessor qe fut partie al ordinaunce fut
 seisi, prest, &c.; par quei a la noun seisine des
 autres nous navoms mester a respondre.—*Thorpe*.
 Et nous demandoms jugement puis qe la seisine de
 touz est suppose par vostre counte, queux seisines
 nous avoms traverse, et vous repliez en meintenance
 dun, et ne mye des autres, et issi les autres sont
 traversez par nous et ne sont pas dedit de vous, et
 par taunt le contrare de vostre counte tenu a nent
 dedit de vous, par quei nous demandoms jugement
 de counte.—*WILBY*. Donques vous refusetz laverement
 qil vous tend de la seisine son predecessor qe fut
 partie al ordinaunce; et mesqil en son counte nust
 parle mes de la seisine il li suffireit; par quei cele
 seisine luy suffit a meintener.—*Thorpe*. Sire, mesqil
 poait aver meintenu son counte par une seisine,
 puis qe il ad done divers, il covient qil meinteigne
 trestouz, et autrement il ad mespris son counte, qe
 cest sa defaute demene.—*SCHARS*. Vous avetz dit qe
 ses predecessours ne furent pas seisiz, et il dit qun
 fut seisi, et par taunt sur sa seisine vous estes a
 travers; par quei nous prendroms issue sur cel
 point, sanz aver regard as autres, de la seisine.—
*Et ita fecit.*¹

(69.)² § Le baron et sa femme perdirent par Deceite
 defaute le dreit sa femme; et apres la mort [Fitz.,
 le baron la femme pria brief de Deceite. — 4.] Disceit,

¹ With regard to the joinder of | on the roll, see above, p. 71, note 8.
 issue, and the conclusion of the case | ² From H., and I.

Nos. 70, 71.

A.D. 1846. WILLOUGHBY. You can have a *Cui in rita*; and I have seen, in a case in which husband and wife who held for their lives lost by default, that after the husband's death the wife could not maintain a *Quod ei deforceat*, because she ought to have a *Cui in vita*; and so also in this case.—HILLARY. At common law, when husband and wife lost by default, the wife could have only a writ of Right, and the *Cui in rita* is given in place of that; and since the *Cui in rita* is given in place of a writ of Right at common law, even though I can have that writ, the fact will not deprive me of the writ of Deceit; and, moreover, on a *Cui in rita* she would have to affirm that the judgment was given against her husband and her by due process, which is contrary to this suit; therefore let her have the writ of Deceit.

Statute merchant: re-extent. (70.) § Grene came to the bar, and showed how one J. had sued execution on a statute merchant, and how the lands of his client which were, with regard to the receiver of the issues, extended at ten marks, were in fact of the value of one hundred marks, and how the extent was returned, and prayed a writ to re-extend the land.—WILLOUGHBY. You cannot have it: for, as soon as he has levied the money and his costs, you will be able to maintain your writ of Account against him to have your land back, notwithstanding this extent; therefore you are not put to any mischief.—Therefore he could not have the re-extent.

Appeal. (71.) § One J. sued a writ of Appeal against A., B., C., D., and E., who alleged that he ought not to be answered because he had been outlawed in the same Court. And the roll was fetched, and read, and it purported that heretofore J. had been indicted because he was supposed to have committed

Nos. 70, 71.

WILBY. Vous poetz aver un *Cui in vita*; et jay veu A.D. 1346.
la ou le baron et sa femme qe tindrent a lour vies
perdirent par defaute qe apres la mort le baron la
femme ne pout meyntenir *Quod ei deforceat*, pur ceo
qe le dust aver un *Cui in vita*; et auxi en ceo cas.

—HILL. A la comune lei, la ou le baron et sa femme
perdirent par defaute, la femme avereit mes un
brief de Dreit, et en lieu de ceo est le *Cui in vita*
done; et depuis qe le *Cui in vita* est done en lieu
dun brief de Dreit a la comune ley, et mesq[ue] jeo
puisse aver cel brief, ceo ne moy¹ toudra pas un
brief de Deceite; et auxi en le *Cui in vita* ele
affermera le jugement taille vers son baroun et lui
par deue proces, qest a contrare de ceste sute; par
quei, &c.

(70.)² § *Grene* vint a la barre, et moustra coment Estatut mar-
un J. avoit suy execucion hors dun estatut, et les chant:s
terres son client qe furent al resceivour estenduz a re-es-
x. marcs, la ou ils vaillent c. marcs, quel estent fut tente:⁴ [Fitz.,
retourne, et pria brief de reestendre la terre.—WILBY. Extent, 18.]
Vous nel averetz pas: qar, quel houre qil eit leve
les deners et ses custages, vous meintendrez vostre
brief Dacompte vers luy pur reaver vostre terre,
nent countreestaunt cele estente; par quei vous
nestes pas a meschief.—Par quei il nel pout aver, &c.

(71.)⁵ § Un J. suyst un brief Dappel vers A., B., Appel.
C., D., et E., qe alleggerent qil ne dust estre respondu [Fitz.,
pur ceo qil fut utlage en mesme la place. Et le Chartr, 11; Office
roulle quis et lieu, qe voleit qe autrefoitz J. fut del Court, 23.]
endite qil dust aver fait assaut a un H., et fist

¹ moy is omitted from I.

² From H., and I.

³ The words Estatut merchant are from I. alone.

⁴ re-estente is from H. alone.

⁵ From H., and I., until otherwise stated.

No. 71.

A.D. 1346. an assault on one H., and caused this H. to be taken, together with his cart and ten oxen, and kept imprisoned for three days until this same H. had paid him a fine of half a mark to save his life, and have deliverance, and on that indictment, in the words of the roll, *ad sectam Regis utlagatus fuit causa predicta*. And thereupon the plaintiff had leave to imparl, and afterwards came back into Court and produced the King's charter of pardon of the outlawry with the clause *ita quod stet recto nobis de transgressione predicta responsurus, &c.*—*Grene*, for all the defendants. When the charter was granted to you, you found mainprise to appear on a certain day before the Justices, *stando recto*, so that the charter was granted to you on that condition, and you do not show that you are acquitted of that trespass at the King's suit, and you do not show how you have observed the condition mentioned in your charter, either by paying a fine, or in any other manner, without which the charter cannot be of any avail ; judgment whether you ought yet to be answered.—And it was said that in all such cases of charters granted they are void if there is a failure in the observance of the condition, as appears by the statute.¹—And afterwards *Grene* passed over, and said on behalf of A., who was appealed as principal, “We say Not Guilty.” And for B. he alleged that on a previous occasion the plaintiff had sued a like writ of Appeal against them, on which writ they alleged this outlawry by reason of which he ought not to be answered, and the plaintiff was then questioned on this matter by the Court, and he then said that he could not say anything in contradiction of the outlawry, for which reason judgment was given that they should go quit ; therefore (said

¹ 5 Edw. III., c. 12.

No. 71.

arester celi H. et sa charette od x. boefs a demurer A.D. 1346.
pur iij jours tanqe mesme celi H. luy avoit fait fin
dun demi marc pur salvacion de sa vie et la
deliveraunce aver, et sur lenditement *ad sectam Regis*
utlagatus fuit causa prædicta. Et sur ceo le pleintif
avoit counge denparler, et puis revint et moustra chartre
le Roi del utlagere perdone, *ita quod stet recto nobis*
de transgressione prædicta responsurus, &c. — *Grene*,
pur touz les defendants. Quant la chartre vous fut
graunte vous trovastes meinprise destre a certain
jour devant les Justices, *stando recto*, issint sur cele
condicion la chartre vous fut graunte, et vous ne
moustrez pas qe vous estes acquite de cel trespass a
la sute le Roi, ne par fine faire ne en autre manere
ne moustrez coment vous avetz servi la condicion
mote en vostre chartre, saunz quel la chartre ne poet
estre de force; jugement si unquore devetz estre
respondu.—Et dit fut qen touz tielx cas des chartres
grauntes qils sont voides si la condicion faille, *ut*
patet per statutum.—Et puis *Grene* passa outre, et
dit pur A. qest appelle de principal:—Nous dioms
Non culpabilis. [Et pur B. il alleggea qe autrefoitz
le pleintif avoit suy autiel brief Dapel vers eux, a
quel brief ils alleggerent cel utlagere]¹ qil ne dust
estre respondu, et donqes il fut appose de cele par
la Court, et il dit qe il ne savoit rienz dire
encountre Lutlagere, par quei fust agarde qils
alerent quites; par quei jugement, &c. Et pur

¹ The words between brackets are omitted from I.

No. 71.

A.D. 1346. *Grene*) judgment. And for C., the fourth, he said:— You see plainly how the plaintiff's object is to recover damages by this writ, and that although he has confessed that he was outlawed after the commencement of the first writ of Appeal, by which outlawry every personal action for the recovery of damages was extinguished; judgment, &c. And as to D. and E. he abode judgment on the first exception as to whether the plaintiff ought to be answered.— And as to that exception the appellor said that he had paid his fine at the time at which his charter of pardon was first allowed, and this was found to be so by the roll, and he therefore demanded judgment against the appellees.—*Thorpe*. Then we say for D. and E., Not Guilty.—*Sadelyngstanes*. As to A., he is guilty; ready, &c.—With regard to B., the record was read, and it was found, as above, that the plaintiff said that he could not say anything in contradiction of the outlawry, and that, in the words of the roll, *postea appellator subito se subtraxit*; and judgment was then given that the defendants should go without day, and that the appellor should be taken. And according to the intentment of the Court it was because of the outlawry, and not because of the non-suit, that the pledges to prosecute were not amerced. On this *Sadelyngstanes* demanded judgment, since *Grene* alleged that they went quit, whereas the record was to no other effect than that they should go without day, because (said *Sadelyngstanes*) we were not then in a condition to be answered, which reason has now come to an end, and so the reverse of *Grene's* answer is found.—And as to C., the fourth, *Sadelyngstanes* said that this outlawry arose out of a simple trespass, and that could not toll this action of Appeal, which is of a higher nature; judgment, &c.—*Thorpe* said that, because the pleas in law extended to the discharge of those who had pleaded to a jury on

No. 71.

C., le quarte, il dit:—Vous veietz bien coment il est A.D. 1346. a recoverir damages par cest brief et coment il soi ad conu qil estoit utlage puis le primer brief Dappel comence, par quel chesqun accion personnel de recoverir damages fut esteint; jugement, &c. Et quant a D. et E. il demura sur la primere excepcion sil dust estre respondu. Et quant a cel chalange lappellour dit qil avoit fait sa fin al houre qe sa chartre estoit primes allowe, et ceo fust issi trove par roulle, par quei il demanda jugement vers ceux.—*Thorpe*. Donques dioms pur D. et E., *Non culpabiles*.—*Sadel*. Quant a A., coupable, prest, &c.—Quant a B. le recorde fut lieu,¹ et trove fut, *ut supra*, qil dit qe il ne savoit rienz dire countre lutlagere, *et postea appellator subito se substraxit*; et agarde fut qe les defendants allassent saunz jour, et qe lappellour fut pris. Et al entent de Court ceo fut pur lutlagere et noun pas pur le nounsute qe ses plegges ne furent pas amercies. De quei *Sadel* demanda jugement, del houre qil alleggea qils alerent quites, ou le record nest pas autre mes qils alerent saunz jour, pur ceo qe nous nestioims mye responsable adonques, quele cause ore cesse, et issi le revers de son respons est trove.—Et quant a C., le quarte, il dit qe cele utlagere surdi dun simple trespass qe ne poet tollir ceste accion Dappel, qest de plus haut nature; jugement, &c.—*Thorpe* dit pur ceo qe les plees en jugement² sestendent en descharge de ceux qount plede al enquête auxi avant come

¹ H., lu.² The words en jugement are omitted from I.

No. 72.

A.D 1346. the facts as much as to those who were abiding judgment, no *Venire facias* could therefore issue, unless those pleas in law were adjudged to be null, and further that if the principal were acquitted all those who had pleaded to judgment in law would go quit.—Therefore a day was given over.

Appeal. § An Appeal was sued against several persons. One of them alleged that the plaintiff was outlawed, and therefore ought not to be answered. The appellor showed that this outlawry was only on an indictment for Trespass, and produced a charter of pardon of outlawry. And they abide judgment whether the appellor should be answered as to this action taken at an earlier time than that of the outlawry. Another of the defendants pleaded Not Guilty. A third defendant pleaded that the plaintiff on a previous occasion brought against him a like writ, when he alleged outlawry against the plaintiff, which the plaintiff could not afterwards deny, and therefore judgment was given that this third defendant should go quit: judgment was therefore prayed, on behalf of this third defendant, whether the plaintiff ought to be answered as to this writ.—*Moubray*. The reason why the plaintiff was not answered on that previous occasion has now come to an end; therefore we pray judgment because the third defendant does not answer.—And so to judgment.—And the COURT said that it would take the verdict of the jury before it gave judgment on that which had been pleaded in bar for the others.

Trespass with battery. (72.) § One A. sued a writ of Trespass with battery against B., C., D., E., and others. B. appeared, and pleaded Not Guilty. And afterwards in another term C. appeared, and pleaded in the same manner, and thereupon process was made until the Quinzaine of St. Hilary last passed, when the

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a ces qe sount en jugement, pur quel nul *Venire A.D. 1346*
facias issera, einz ceo qe ses plees soient ajugges pur
nuls, et unqore si le principal soit acquite touz ceux
qount plede en jugement irrount quites.—Par quel
jour fut done autre.

§ Appelle¹ vers plusours. Un alleggea qe le pleintif Appelle.
est utlage, par qai il ne deit estre respondu. Lautre
moustra qe cele utlagerie fuit sur enditement de
Trans, et moustra chartre de pardoun. Et sount en
jugement si a ceste accion pris de temps plus haut
qe nest pas utlagerie sil serra respondu. Quant a
un autre, il pleda de rienz coupable. Et quant al
terce pleda qautrefoith le pleintif porta vers luy
autel brief, ou il alleggea utlagerie devers luy, quel
apres il ne poet dedire, par qai il fut agarde qil
alast quites; jugement si a cest brief serreit
respondu.—*Moubray*. La cause pur qai il ne fuit
pas respondu adonques cesse a ore; par qai nous
prioms jugement de ceo qil ne respond pas.—*Et sic
ad judicium*.—Et COURT dist² qil prendrait primes
lenqueste avant qil ajuggeast ceo qest plede en
barre pur les autres.

(72.)³ § Un A. suist un brief de Trespas de Trans de
batorye vers B., C., D., et E., et autres. B. vint, et
pledia *nil culpabilis*. Et puis en un autre terme C.
vint, et pleda en mesme le manere, sur quel proces
fust fait tanqe al quinzine de Seynt Hillare drein passe,

¹ This report of the case is from L., and C. | ² dist is omitted from L.

³ From H., and I.

No. 72.

A.D. 1346. *Distringas juratores* was returned with regard to the first panel; and with regard to the other the *Habeas corpora* was returned on the Morrow of the Purification. And then there was entered on the roll "*Jurata inter A. querentem et B. et C. defendantibus ponitur in respectu nisi prius,*" &c. And on the day of the *Nisi prius* one jury was taken from the two panels, and it passed for the plaintiff with three hundred marks damages. And now on the day which they had in Court the plaintiff prayed judgment.—And *Skipwith*, for the defendants, alleged discontinuance as above, and he also raised another point—that on the same writ E., against whom an Exigent had issued, ought to have surrendered and found mainprise to appear in Court on the day on which the Exigent was returned, that is to say, on the Morrow of St. Martin, and the roll made mention that he surrendered at the Octaves of St. Martin, supposing the Exigent to be returnable then, and so it was proved that he did not surrender on his day, &c., and therefore his mainprise had failed, &c., upon which no process had been made, and therefore the defendant was without day.—*Scot*. As to the first exception we find the same names in one panel as in the other, and that on the day of *Nisi prius* one jury was taken for the whole, and so it is now to be adjudged as only one jury in law; therefore the continuance is good, as it seems.—*Skipwith*. Even though it be the fact that a jury which is elected from the two panels is only one jury in law, still when it was the fact that two panels were returned on different days with regard to two different pleas pleaded on different days, I say that two juries ought to have been put in respite, because, during the whole time before they were joined they were different juries, so that by the challenge of one defendant the inquest might have been delayed

No. 72.

qe le *Distringas juratores* fut retourne en dreit del A.D. 1348. primer panel ; et en dreit del autre le *Habeas corpora* fut retourne *in Crastino Purificationis*. Et adonques fut entre en roulle *Jurata inter A. querentem et B. et C. defendantes ponitur in respectu nisi prius, &c.* Et al jour de *Nisi prius* un enqueste fut pris de les ij paneles, et passa pur le pleintif a damage de ccc. marcs. Et ore a jour qils avoient en Court le pleintif pria jugement.—Et *Skip.*, pur les defendants, alleggea la discontinuaunce *ut supra*, et auxi il parla autre point qe a mesme le brief E., vers qi lexigende estoit issu, soi dust aver rendu¹ et trove meinprise destre a jour en Court qe lexigende fut retourne, saver, *in Crastino Sancti Martini*, et le roulle fist mencion qil se rendist as utaves de Seynt Martyn, suposant lexigende estre retournable adonques, et issint est prove qe il ne soi rendi mye a soun jour, &c., par quei la meinprise failli, &c., de quei nul proces fut fait, et par taunt le defendant saunz jour.—Scot. Quant al primer chalenge nous trovoms mesmes les nouns en lun panel come en autre, et qe a jour de *Nisi prius* un enqueste est pris pur tut, issi nest ceo forsqe come un enqueste en leye ajugge a ore; par quei la continuance est bone, *ut videtur*.—*Skip.* Mesqe issi soit qun enqueste [qe] soit eslieu² de les ij panels ne soit qun enqueste en lei, unqore, quant issi fut qe ij panels furent retournes a divers jours en ij divers plees pledes a divers jours, jeo die qe ij jurours duissent aver este mys en respit, qar tut temps devant le joindre ils furent divers jurours, issint qe par le chalenge del un defendant lenqueste put aver este

¹ I., rendu a prisoun.² H., eslu.

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A.D. 1346. with regard to him, and yet taken with regard to the other.—THORPE (JUSTICE). There is no more reason to discontinue one jury with regard to one party than with regard to the other; so, according to your statement, the whole would be discontinued, whereas the action of the party is clearly found by the verdict; and, moreover, some of the defendants are outlawed on this same writ, and have lost their chattels by forfeiture, and now the whole matter would be defeated, which would be hard.—*Skip with*. It ought to be so, and the matter should be recommenced where the discontinuance commenced.—And so the judgment to be rendered is pending.

Error. (78.) § Land was rendered to R. and to K. his wife in tail, with remainder to the heirs of the husband, in virtue of which render R. and K. were seized. From R. and K. there was issue one J.; from J. there was issue one F., who sued a *Scire facias* to have execution, “*coram Justiciariis de Banco*,” against one A., who alleged that, “*post mortem praedictorum R. et K.*,” one J. entered as their son and heir in tail, and enfeoffed one F., &c., with warranty, to hold to him and his assigns, which F. enfeoffed A. (and A. produced a deed to that effect), and so the fine was executed, and A. demanded judgment.—The defendant alleged that the purport of the statute *De his quæ recordata sunt*¹ was that matters recorded should be put in execution by those to whom a fine limited an estate, without their being put to any other process in which there might be delay, and since A. had confessed the fine, &c., and had not affirmed any seisin in the person of the defendant, he demanded judgment.—And then the COURT gave judgment that the defendant should take nothing by his writ,

¹ 18 Edw. I. (Westm. 2), c. 45.

No. 78.

delaie vers luy, et unquore pris vers lautre.— A.D. 1346.
 THORPE, JUSTICE. Nent plus de cause y ad il a discontinuer lune jure vers lune partie qe vers lautre; issint, a vostre dit, tut serreit discontinue la ou laccion de partie est trove clere par verdit; et auxi ascuns des defendants a mesme cesti brief sont utlagés, et perdu lour chateux par forfeture, et ore serra tut defait, qe serra dure.—*Skip.* Issi covient estre, et recomencer la ou la discontinuaunce comencea.—*Et sic pendet judicium reddendum.*

(78.)¹ § Terre fut rendue a R. et a K. sa femme en la taille, le remeindre a les heirs le baron, par quel reñdre ils furent seisiz. De R. et K. issit un J.; de luy issit un F., qe suist un *Scire facias* daver execucion, *coram Justiciariis de Banco*, vers un A., qe allegaea qe *post mortem predictorum* R. et K. qun J. entra come lour fitz et heir en la taille, et enfessa un F., &c., od garrantie, a lui et a ses assignes, lequel lui enfessa—et moustra fait;—issi la fine execut; jugement.—Le demandant allegaea lestatut *De his quæ recordata sunt qils serront mys en execucion par ces a queux la fyne taille estat, saunz estre mys a autre proces ou delaie poet estre, et de puis qil avoit conu la fine, &c., et nulle seisin navoit afferme en la personne le demandant, il demanda jugement.—Et puis la COURT agarda qil ne prist rienz par soun brief,*

Error.
 [Fitz.,
*Scire
 facias,*
 124.]

¹ From H., and I.

Nos. 74, 75.

A.D. 1346 "sed quod tenens eat sine die, et quod potuit sibi querere breve originale, si sibi riderit expedire," on which the warranty might be saved to the tenant.—On this a writ of Error was sued in the King's Bench, and there the judgment was afterwards affirmed as good, &c.

Assise of Novel Disseisin. (74.) § An Assise was brought by two persons against two persons, in which one of the defendants alleged joint tenancy by a charter, and process was made thereon, and it was then found that he was sole tenant, and therefore the assise was charged as to whether the other person named in the writ was a disseisor or not. And they said that he was a disseisor, and that with force and arms. Therefore, without enquiry having been made respecting the one who had alleged joint tenancy, judgment was given that the plaintiff should recover his double damages, that is to say, four hundred marks, against the two, and they were committed to prison.—And now one of the plaintiffs sued a *Scire facias* to have execution of the whole of the damages against both the defendants in common, because the damages were not apportioned.—Therefore exception was taken, and also because enquiry had not been made touching the one who alleged joint tenancy as to whether he was a disseisor or not.—And afterwards exception was taken to the writ of *Scire facias* because the name of the other plaintiff was omitted.—*R. Thorpe.* He is dead; ready.—But because the writ ought to have supposed him to be dead, and did not, it was therefore quashed, &c.

Ejectment from wardship. (75.) § Note that on a writ of Ejectment from

Nos. 74, 75.

*sed quod tenens eat sine die, et quod potuit sibi A.D. 1346.
querere breve originale, si sibi riderit expedire, en
quei la garrantie puisse estre salve al tenant.—Sur
quei brief Derrour fuist suy en Baunk le Roi, et puis
illoeques fut afferme pur bon jugement, &c.*

(74.)¹ Une Assise fut porte par ij vers ij, ou lun allegaea jointenance par chartre, et sur ceo proces fait, et puis il fut trove soul tenant, par quei lassise fut charge si lautre nome en le brief fut disseisour ou noun. Et ils disoient qe si fut, et ceo ri et armis. Par quei, saunz enquere de celi qe allegaea la jointenance, agarde fut qe le pleintif recoverast ses damages a double vers les ij, saver, de cccc. marcs, et eux a la prisone.—Et ore lun pleintif² suist *Scire facias* pur execucion aver³ des damages del entere vers lun et lautre en comune, qar les damages ne furent pas apporcionnes.—*Ideo chalange, et auxi de ceo*⁴ *qil nestoit mye enquis de celi qe allegaea la joynendance sil fut disseisour ou noun.* — Et puis le brief fut chalange qar lautre fut entrelesse.—*R. Thorpe.* Il est mort; prest.—*Sed quia* le brief lui⁵ duist aver suppose mort, et *non fecit, ideo quassatur*, &c.

(75.)⁶ § *Nota* qen brief Dengettement porte vers Engetttement.

¹ From H., and I.

² The words lun pleintif are omitted from I

³ aver is omitted from I.

⁴ The words de ceo are omitted from I.

⁵ lui is omitted from I.

⁶ From L., and C. The record appears to be that found among the *Placita de Banco*, Easter, 20 Edw. III., R^o 2, d. The action was brought by the Abbot of Selby against Thomas de Fencotes, and Walter Yole, in respect of ejectment from the wardship of the manor of

Kelfield (Yorks) by the two above-named defendants together with Nicholas Ward of Bubwith, the heir being Henry son and heir of Joan late wife of Conan de Kelkefelde. “Et Nicholaus venit “ et alii non veninut. Et præcep- “ tum fuit Vicecomiti quod dis- “ tringeret prædictum Walterum, “ &c., et sicut prius quod dis- “ tringeret præfatum Thomam, “ &c., et etiam quod proclamationem “ faceret quod iidem Thomas et “ Nicholaus essent [originally only “ idem Thomas esset, but altered

No. 76.

A.D. 1346. Wardship brought against three persons the Proclamation was returned with regard to one, and he was called in Court, and appeared. And the plaintiff wished to count against him, but the COURT would not permit this until the others had appeared.

Quare impedit. (76.) § The King brought a *Quare impedit* against the Abbot of Ramsey, counting that in the time of the King's grandfather one A.,¹ then Abbot, the Abbot's predecessor, presented, and that by reason of the death of A. the temporalities came into the hand of the King's grandfather, at which time the church became vacant. And he made the descent of the right of presentation to the present King.—*Pole.* It is quite

¹ For the real name, see p. 443, note 3.

No. 76.

iii la Proclamation fuit retourne vers¹ un, et il fuit A.D. 1346.
demande en Court, et vint. Et le pleintif voleit
aver counte devers luy, et COURT luy volleit nient
soeffrere tanqe les autres venissent.

(76.)² § Le Roi porta *Quare impedit* vers Labbe *Quare impedit.*
de Rameseye, countant qen temps laiel un A. Abbe,
soun predecessor, presenta, et par la mort A. les
temporaltes devyndreint en la mein le Roi laiel, a
quel temps leglise se voida. Et fist descente del
presentement au Roi qore est.³ — *Pole.* Bien est

" by erasure and interlineation]
 " hic, &c., si, &c. Et Vicecomes
 " modo mandat quod idem
 " Walterus nihil habet, &c. Et
 " testatum est hic quod satis habet
 " in eodem comitatu, &c. Et quo
 " ad proclamationem faciendam de
 " praedicto Thoma et Nicholao
 " [‘et Nicholao’ interlined], &c.,
 " mandat quod proclamationem
 " fecit, &c., quod iidem Nicholaus
 " et Thomas essent hic ad hunc
 " diem, &c., si, &c. Et quo ad dis-
 " tringendum praedictum Thomam,
 " &c., mandat Vicecomes quod
 " præcepit Willelmo de Routhe.
 " ballivo libertatis de Richemunde,
 " qui nihil inde fecit. Ideo præ-
 " ceptum est Vicecomiti quod non
 " omittat, &c., quin distringat præ-
 " dictum Thomam, &c., et sicut
 " prius quod distringat præ-
 " dictum [sic] et Walterum per
 " omnes terras, &c., et quod de exi-
 " tibus, &c., et quod habeat corpora
 " eorum hic in Octabis Sancti
 " Michaelis, &c., et quod in tribus
 " plenis Comitatibus publice pro-
 " clamari faciat quod praedicti
 " Thomas et Walterus veniant hic
 " ad praefatum terminum praefato
 " Abbatii inde responsuri, si, &c.
 " Idem dies datus est praedicto

" Nicholao per attornatum suum
 " hic in Banco, &c. Et idem
 " Nicholaus in misericordia quia
 " venit per magnam distinctionem
 " et proclamationem ei indefactam,
 " &c."

¹ C., devers.

² From L., and C., but corrected
by the record, *Placita de Banco*,
Easter, 20 Edw. III., R^o 252. It
there appears that the action was
brought by the King against the
Abbot of Ramsey, in respect of a
presentation to the church of
Hoghtone (Houghton, Hunts)

³ The declaration was, according
to the record, “ quod quidam
 “ Willelmus de Gormoncestre,
 “ quondam Abbas de Ramesey,
 “ predecessor Abbatis nunc, fuit
 “ seisisitus de advocatione ecclesie
 “ praedictae, ut de jure ecclesie sua
 “ beatæ Mariæ de Ramesey, . . .
 “ tempore Edwardi Regis avi
 “ domini Regis nunc, quia tandem
 “ ecclesiam de Hoghtone presen-
 “ tavit quendam Rogerum de
 “ Seytone, clericum suum, qui
 “ ad presentationem suam fuit
 “ admissus et institutus, . . .
 “ post cujus mortem praedicta
 “ ecclesia vacavit et vacans fuit
 “ quousque temporalia Abbatum

No. 76.

A. D. 1346. true that our predecessor presented, and that the church became vacant as above, and we tell you that the King, by reason of this vacancy, presented one J.,¹ who was admitted, &c., on his presentation, and is parson imparsonee, and the King has ratified the estate of the same parson for his life by this patent, and we do not understand that our Lord the King can attach disturbance in our person.—*Grene.* Then you

¹ For the real name, see p. 445, note 2.

No. 76.

verite qe nostre predecessour presenta, et qe leglise A.D. 1346.
 se voida *ut supra*, et vous dioms qe le Roi, par
 cause de cele voidaunce, presenta un, J., qe a soun
 presentement fuit resceu, &c., et est¹ personne
 enpersonne, et lestat mesme la personne par cest
 patent ad ratifie pur sa vie, et nentendoms pas qe
 nostre seignour le Roy destourbaunce en nostre
 personne puisse attacher.²—*Grene.* Donques conissetz

" prædictæ devenerunt in manum
 " prædicti Edwardi Regis avi, &c.,
 " per quod jus præsentandi ad
 " eandem acorevit eidem Edwardo
 " Regi avo, &c. [The descent is
 " then traced from Edw. I. to
 " Edw. III.] Et ea ratione ad
 " ipsum dominum regem nunc
 " pertinet ad ecclesiam prædictam
 " præsentare, prædictus Abbas
 " ipsum injuste impedit, &c."

¹ The wodgs et est are omitted from C.

² The plea on behalf of the Abbot was, according to the record,
 " Bene cognoscit seisnam præfati
 " Willelmi de Gurmoncestre,
 " quondam Abbatis, de advoca-
 " tione prædicta, et quod prædictus
 " Rogerus de Seytone fuit admissus
 " et institutus in ecclesia prædicta
 " ad præsentationem ejusdem
 " Willelmi, et quod eadem ecclesia
 " vacans fuit post mortem ejusdem
 " Rogeri tempore quo temporalia
 " Abbatis prædictæ devenerunt
 " in manum prædicti domini
 " Edwardi Regis avi, &c., Sed
 " dicit quod de eadem vacatione
 " ecclesiæ prædictæ dominus Rex
 " nunc præsentavit ad eandem
 " ecclesiam quendam Ricardum de
 " Scarle, clericum suum, qui ad
 " præsentationem suam fuit
 " admissus et institutus in ecclesia
 " prædicta, et adhuc est persona

" impersonata in eadem, qui
 " quidem dominus Rex nunc post-
 " modum, volens securitati prædicti
 " Ricardi ne super possessione sua
 " ecclesiæ illius futuris temporibus
 " impetratur providere, statum
 " quem idem Ricardus ad præsen-
 " tationem ejusdem domini Regis
 " habet in eadem per literas suas
 " patentes acceptavit, ratificavit, et
 " approbavit, nolens quod præ-
 " dictus Ricardus super possessione
 " sua prædicta ecclesiæ illius,
 " ratione alicujus juris quod ipsi
 " domino Regi competit, seu com-
 " petere poterit ratione vacationis
 " Abbatis de Rameseye prædictæ,
 " seu temporalium ejusdem in
 " manu ejusdem Regis seu pro-
 " genitorum suorum quondam
 " Regum Angliæ existentium, seu
 " quacumque alia de causa, per
 " ipsum Regem, vel heredes suos
 " seu ministros suos quoscumque
 " occasionetur, molestetur, seu
 " gravetur. Et profert hic, &c..
 " prædictas literas domini Regis
 " patentes quæ hoc testantur. Et
 " dicit quod jus domini Regis sibi
 " competens de prædicta vacatione
 " ecclesiæ supradictæ sic in omni-
 " bus est executa, absque aliquo
 " impedimento per ipsum Abbatem
 " inde domino Regi facto, salvo
 " jure suo præsentandi ad eandem
 " ecclesiam in proxima vacatione,

No. 77.

A.D. 1346. confess the King's title.—*Pole.* Saving to us our right of patronage to present on future vacancies, we do not deny his title, but we show that he has been satisfied with regard to his presentation.—WILLOUGHBY awarded a writ to the Bishop for the King.—*Quære* whether the King can on a future occasion deraign his presentation by *Scire facias*, since he now has judgment for him; and if he can do so he will then have a presentation twice over by one and the same title, which is not right, and, if otherwise, the judgment is void.

Waste. (77.)¹ § Waste against the Lady Fitz-Payn and her husband, who pleaded No Waste, &c. And at *Nisi prius* the inquest was taken on their default, and on the plea waste was found. And now the plaintiff prayed his judgment on the verdict. The lady prayed to be admitted to defend her right.—*Grene.* Judgment is to be given on the verdict, and not by

This is probably a second | (above, pp. 132-134).
report of No. 2 in the same term |

No. 77.

le title le Roi.¹—*Pole.* Sauf a nous nostre dreit A.D. 1346. davowere a presenter a les voidances, nous ne dedioms pas son title, mes nous moustroms qil est servy de soun presentement.—*WILBY.* agarda brief al Evesqe pur le Roi.²—*Quære* si le Roi par *Scire facias* derrenera autrefoith soun presentement, de puis qil ad ore un jugement pur luy; et, *si sic*, donques avera il deux foith presentement par un mesme title, qe nest pas resoun, et, si noun, le jugement est voide.

(77.)³ § Wast vers la dame Fitz Payn et soun *Wast*. baroun, qe plederunt nulle wast, &c. Et al *Nisi prius* lenqueste pris par lour defaute, et par plee fuit trove le wast. Et ore le pleintif prie son jugement sur verdit. La dame pria destre resceu.—*Grene.* Jugement est a rendre sur verdit, et noun

“ et in aliis vacationibus sequen-
“ tibus cum acciderint, [et] petit
“ judicium si dominus Rex in
“ personam ipsius Abbatis aliquam
“ injuriam seu impedimentum
“ assignare possit in hoc casu,
“ &c.”

¹ After the plea, according to the record, “Johannes [de Clone] qui sequitur, &c. [i.e. pro domino Rege] dicit quod, ex quo praedictus Abbas ad praesens nihil clamat in presentatione ad ecclesiam praedictam ratione vacationis supradictae, petit judicium, et breve Episcopo, &c.”

² The judgment was, according to the roll, “ Quia dominus Rex tulit breve istud versus ipsum Abbatem de vacatione ejusdem ecclesie ipsum dominum continente ratione vacationis temporis alium Abbatie praedictae in manu domini Edwardi nuper Regis

“ Anglie avi, &c., existentium, Et
“ prædictus Johannes qui sequitur,
“ &c., non dedicit quin dominus
“ Rex nunc præsentavit ad
“ ecclesiam illam præfatum
“ Ricardum de Scarle ratione
“ vacationis supradictæ, qui ad
“ eandem fuit admissus et
“ institutus, et adhuc est persona
“ impersonata in eadem, in qua
“ quidem præsentatione ratione
“ ejusdem vacationis prædictus
“ Abbas ad praesens nihil clamat,
“ consideratum est quod dominus
“ Rex habeat præsentationem suam
“ hac vice ad ecclesiam prædictam
“ ratione vacationis supradictæ. Et
“ habeat breve Episcopo Lincoln-
“ iensi, salvo eidem
“ Abbatii et successoribus suis jure
“ suo præsentandi ad eandem in
“ aliis vacationibus, &c. Nihil
“ de misericordia quia primo die,
“ &c.”

³ From L., and C.

Nos. 78, 79.

A.D. 1346. default. Besides, she did not pray to be admitt in the country; and, in an Assise of Novel Disseisi after the assise has been awarded by default of t husband and his wife, the wife cannot be admitt to defend on another day, even though she pray to admitted before the assise be taken, nor can she this case.—SHARSHULLE. In the case which you p touching an assise the award which is made is take the assise, and that must be executed, an moreover, the husband and wife have not a d given them on another day, but in this case they have a day in this Court, and the Justices in t country could have admitted her, and therefore s has appeared in sufficiently good time, and therefo let her be admitted.—And she traversed the action

Capias

78.) § A *Capias utlagatum* issued to a Sheriff, as he returned that he had taken the outlaw, and se him towards the Court by two of his officers, as while on their way the outlaw was taken fro them by force. And by judgment the Sheriff w charged with the body of the outlaw, and w amerced, because it cannot by law be understood th such a rescue could be effected in time of peac and the Sheriff ought to send the person taken sufficient custody at his peril, and, moreover, he has action against those who have effected the rescu and therefore the King holds the Sheriff responsibl

Account.

(79.) § Account touching the receipt of money. C issue joined by the parties the receipt was foun And before auditors the defendant alleged that t plaintiff had received in divers counties a certain su of money from him, and produced tallies in proof. T plaintiff tendered his law that he had not received And thereupon the auditors adjourned the parti before the Justices. And there, after consideration l the COURT, the wager of law was admitted.

Nos. 78, 79.

pas par defaute. D'autre part, ele ne pria pas en A.D. 1346. pays; et, en Assise de Novele Disseisine, apres lagarde del assise par defaute le baroun et sa femme, a autre jour la femme nest pas resceivable, tut prie ele avant qe lassise soit pris, *nec hic*.—SCHAR. En le cas qe vous mettetz¹ dassise lagarde est fait de prendre lassise, quel covient estre execut, et auxint le baroun et la femme navoient pas jour a un autre journe, mes en ceo cas ils ount jour cy, et les Justices en pays la pount aver resceu, par qai ele est venuz assetz en seisoun, et pur ceo soit resceu.
—Et ele traversa laccion.

(78.)² § *Capias utlagatum* issit au Vicounte, qe *Capias*. retourna qil luy avoit pris, et luy maunda vers la Court par deux de soens, et en venant il fuit pris de eux par force. Et par agarde il fuit charge del corps, et amercie, qar ceo ne poet estre entendu par ley en temps de pees qe tiel rescous serroit fait, et le Vicounte luy maundereit par certains gardeins a soun peril,³ et auxint il ad saccion vers ces qe luy rescoustrent, par qai le Roi prent al Vicounte, &c.

(79.)² § Accompte de resceit de deners. Trove fuit Accompte, a mise des parties la resceit. Et devant auditours le defendant alleggea qe le plaintif en divers countes⁴ ad resceu certaine summe de ly, et de ceo moustra tailles. Le plaintif⁵ tendi⁶ sa ley qe noun. Et sur ceo les auditours les⁷ adjourna devant⁸ Justices. Et illoeques par avys de Court la ley resceu, &c.

¹ L., mettetz avant.⁵ MSS., defendant.² From L., and C.⁶ L., tendist.³ C., perille.⁷ les is omitted from L.⁴ C., countees.⁸ C., avant.

No. 80.

A.D. 1346. (80.) § A man recovered damages against an Abbot, and now prayed an *Elegit*, and it was granted to him.

No. 80.

(80.)¹ § Une homme recoveri damages vers un A.D. 1346.
Abbe, et ore il pria le *Elegit*, et ceo lui fut [Fitz.,
Execucion,
83.]

¹ From H. alone. See Y.B., Mich., 19 Edw. III., No. 61 (p. 422).



TRINITY TERM
IN THE
TWENTIETH YEAR OF THE REIGN OF
KING EDWARD THE THIRD
AFTER THE CONQUEST.
(FIRST PART.)

TRINITY TERM IN THE TWENTIETH YEAR
THE REIGN OF KING EDWARD THE THIRTEENTH
AFTER THE CONQUEST.

No. 1.

A.D. 1346. (1.) § Matthias de Leeke brought a *Quare impletum* against Alexander de Leeke, and John his brother. Alexander appeared, and John made default, Matthias was essoined, and a day was given to him to appear now. Therefore, on the first day of Octaves, *Thorpe* said, for Alexander, that he was ready to answer, and prayed that Matthias might be called.—Thereupon *Grene* appeared for Matthias and said that he could not say anything in regard to this suit, but disavowed it, and that seemed to the Court that he could not disavow by reason of the continuance of it which had been made on the writ, he was ready to count. He said, moreover, that Alexander had sued *Quare impletum* against Matthias, in respect of same church, returnable last Term, and that was returned *tardus*, and thereupon an *alias* summons was awarded returnable now. And we tell you (*Grene*) that we were summoned in the country by Sheriff, and, although this *alias* summons has not been returned, still the original is in this Court, and ought to hold the plea upon that. Therefore, say we testify that the *alias* summons has been served and you have the original before you, we therefore

DE TERMINO TRINITATIS ANNO REGNI REGIS
EDWARDI TERTII A CONQUESTU VICESIMO.¹

No. 1.

(1.)² § Matheu de Leeke porta un³ *Quare impedit* A.D. 1346. vers Alisaundre de Leeke, et J. son frere. A. *Quare impedit.* apparust, et J. fist defaute, et Matheu fut essone, [Fitz., et jour done a ore. Par quei, al primer jour des *Quare impedit,* utaves, *Thorpe*, pur Alisaundre, dit qil fut prest a 64.] respondure, et pria qe M. fust demande.—Sur quei *Grene* vint pur luy, et dit qil ne savoit rienz dire de ceste sute, eins le desavowa, et si sembloit a la Court qil nel pout desavowere pur la continuaunce qe en est fait sur le brief, prest est a counter.⁴ Et dit outre coment Alisaundre ad suy un *Quare impedit* vers luy, de mesme leglise, retournable le drein⁵ terme, quel brief fut retourne *tarde*, sur quei un somons *sicut alias* agarde retournable a ore. Et vous dioms qe nous estoioms somons en pays par le Vicounte, et, coment qe ceo somons⁶ *sicut alias* ne fut pas retourne, unqore loriginal est ceinz, sur quel vous devetz tenir le plee. Par quei puis qe nous tesmoignoms qe le *sicut alias* est servy, et vous avetz loriginal devant vous, par quei nous

¹ The reports of this term are from the Lincoln's Inn MS. (called L.), the Harleian MS. No. 741 (called H.), the MS. in the University Library at Cambridge, Hh. 2, 3 (called C.), and the Isham transcript (called I.).

² From H., and I., but corrected by the record, *Placita de Banco*, Trin., 20 Edw. III., R^o 54, d. It there appears that the action was

brought by Matthias de Leeke against Alexander de Leeke and John his brother, in respect of a presentation to the church of Leeke (Leake, Lincolnshire).

³ I., soun.

⁴ H., a conustre ; I., dacompter, instead of a counter.

⁵ I., mesme.

⁶ somons is omitted from H.

No. 1.

A.D. 1346. pray that Alexander do count against us on this writ.—*Thorpe*. We take your records to witness that Matthias will not prosecute his own writ, and we demand judgment, since he has been essoined on the same original, and has a day now, and now will not count, and we pray a writ to the Bishop. And as to that which you say touching the other writ sued by us, if the *alias* summons had been returned we should be ready to count, but before it is returned the law does not put us to do so.—*Stouford*. Before the fourth day of Term it has not been the custom for anyone to begin any plea, except a proffer on a writ of Right, and therefore we shall record whatsoever is said on one side and on the other on the fourth day.—And on the fourth day Alexander was called on the writ in which he was himself plaintiff, and he appeared, and *Grene*, on behalf of Matthias, prayed that Alexander might count against him.—*Thorpe* recited that, on the first day of the Octaves, Matthias had been called on a writ which he had brought against Alexander, to which writ Alexander appeared, and Matthias said that he would not prosecute that writ, and therefore (said *Thorpe*) on his nonsuit then recorded we pray a writ to the Bishop.—*Grene*. We take your records to witness that on the first writ, on which Alexander is now called as plaintiff, he would not count; and as to his statement that we said that we would not prosecute our writ, it is not so; for we disavowed the suit, and that conditionally, to the effect that if it should seem to the Court that we could not disavow it by reason of the continuance taken since the purchase of the writ, we were ready to count; and we still are so; therefore on your present non-suit we pray a writ to the Bishop.—*Thorpe*. When two writs of *Quare impedit* are sued, one for the defendant, and one for the plaintiff, each

No. 1.

prioms qil counte vers nous a cest brief.—*Thorpe*. A.D. 1346.

Nous pernoms voz recordes qil ne voet pas suyr son brief, et demandoms jugement, puis qil ad este essone en mesme loriginal, et ad jour a ore, et ore ne voet pas counter, et prioms brief al Evesqe. Et a ceo qe vous parlez del autre brief suy par nous, si le *sicut alias* fut retourne nous serroms prest a counter, et avant qil soit retourne ley ne nous mette pas a ceo faire.—*Stouf*. Avant le quarte jour homme ne soleit pas attamer nul ple, sil ne fut un profre en brief de Dreit, par quei nous recorderoms quanqe est dist dune parte et dautre al quarte jour.—Et a cel jour A. fut demande al brief en quel il fut pleintif mesme, et vient, et *Grene*, pur M., pria qil countast vers luy.—*Thorpe* rehercea coment al primer jour des utaves M. fut demande a un brief qil avoit porte vers luy, a quel brief il apparust, et dit qil ne voleit pas suir cel brief, par quei sur sa noun sute adonques recorde nous prioms ore brief al Evesqe.—*Grene*. Nous pernoms voz recordes qe a primer brief, a quel il est ore demande come pleintif, il ne voleit¹ pas counter; et a ceo qil parle qe nous deismes qe nous ne vodrioms² pas suir, il nest pas issi; qar nous desavowames la sute, et ceo³ *conditionaliter*, qe si sembloit a la Court qe nous nel purrioms⁴ faire pur la continuaunce pris sur le brief, prest fumes a counter; et unquore sumes; par quei a vostre nounsute a ore nous prioms brief al Evesqe.—*Thorpe*. Quant deux *Quare impedit* sount suyz, lun pur le defendant, lautre pur le pleintif, chescun

¹ H., voet.

² I., voudroms.

³ I., hoc.

⁴ I., purroms.

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A.D. 1346. against the other, if judgment be rendered on the original which you brought, we shall not be put to count; for if we were to count, and judgment were afterwards rendered for us on your non-suit on the ground that you could not disavow your suit because of the continuance, that count would then have been counted to no purpose; and even though the Court were to give judgment that he could not disavow his suit, but that he should be admitted to count, as was said, in virtue of his conditional plea, still he ought to be put to count rather than we should, because he was first called on this writ.—WILLOUGHBY. Then you will not count on your behalf, nor he on his behalf, and therefore we can well let the matter rest in peace.—*Thorpe*. You can first give judgment on the point on which we abide judgment on the first day, on the writ in which he was himself plaintiff, and the judgment on that point, if it is in our favour, puts an end to this writ; and, if the judgment is that he cannot disavow the suit by reason of the continuance, then he will now be in the same plight as he was at that time; and at that time when we, who were defendant, made our proffer he must have counted, or else we should have had a writ to the Bishop; and so we shall now; therefore we demand judgment on that point, and pray a writ to the Bishop.—SHARSHULLE. On that issue in law judgment cannot be given either for you or for him; both writs come to an end; and therefore it were well that you should consider.—*Skipwith*. No, Sir, it cannot be so. If you give judgment that he could not disavow the suit, and that, because he did not count at that time, you award us a writ to the Bishop, that judgment would put an end to both writs; but if you give judgment that he could not disavow the suit, but save him his suit conditionally in accordance with his plea, that judgment will first

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vers autre, si jugement soit rendu sur l'original quel A.D. 1346. vous portastes, nous ne serroms pas mys a counter; qar si nous countassoms,¹ et apres jugement fut rendue pur nous sur vostre nounsute pur ceo qe vous ne purriez pas desavowere le suite pur la continuaunce, dounques serra cel counte counte en veyn ; et mesqe Court ajuggeast qil ne pout desavowere, mes qil fut resceu a counter come par son ple conditionel fut parle, unquore dust il estre mys plus toust qe nous ne serroms, puis qe a cel brief il fut primes demande.—WILBY. Dounques vous ne voletz pas counter de vostre parte, ne il de sa partie, par quei nous le poms bien soeffrir² qil gise en pees.—Thorpe. Vous juggeretz primes sur nostre demure le primer jour sur le brief a quel il fut mesme pleintif, quel jugement sur cel, sil passe pur nous, termine cest brief, et, sil passe qil ne put desavowere la sute pur la continuaunce, donques serra il a ore en mesme le plit come il fut adonques; et adonques quant nous, qe fumes defendant, ceo profrumes³ il luy covensist counter ou nous eussoms eu brief al Evesqe; et auxi serroms a ore; par quei nous demandoms jugement sur cel, et prioms brief al Evesqe.—SCHARS. Sur cele demure ne pout ajugger pur vous, ou pur luy; termine lun brief et lautre; et pur ceo il est bon qe vous avisetz.—Skip. Nanil, Sire, il ne poet estre issi. Si vous ajuggez qil ne poait desavowere la suyte, et de ceo qil ne counta pas adouques dagarder a nous brief al Evesqe, quel jugement terminereit lun brief et lautre; mes si vous ajuggez qil ne poait desavowere, et luy salver sa sute *conditionaliter* come il plede, donques serra cele

¹ MSS. of Y.B., conissames.² H., suffrir.³ I., proferoms.

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A.D. 1346. have to be put in execution; therefore, since we assign a default in him, which may possibly put an end to this original, we shall not be put to count until judgment has been given on that default, as has been said before. And, moreover, Sir, in the same *Quare impedit* on which he appeared on the first day there is named one John, who is here ready, &c., and who prays that Matthias do count against him.—*Grene*. We are called on an original by which Alexander is plaintiff, and he will not count; therefore we pray a writ to the Bishop. And as to your proffer we are not called on that original; therefore, &c.—*Skipwith*. Then we take your records to witness that he will not count against John, and on John's behalf we pray a writ to the Bishop. And, moreover, on the first day Matthias disavowed the same suit, and that he could not do by reason of the continuance taken on the same writ, and at that time he would not count against us; and the dispute between him and John is no reason why he ought not to count against us, if he is to count against John, and that he will not do; therefore, &c.—*SHARSHULLE*. The disavowal which was made was made only conditionally, and it seems to us that you cannot make that disavowal; therefore you must be put to count in accordance with what was said in your conditional plea; therefore count, if you will, or else we shall deliver you immediately.—Therefore *Notton* counted, on behalf of Matthias, against Alexander and John, to the effect that it belonged to him to present, because one Nicholas,¹ his father, was seised of the advowson as of fee and of right, and presented one Walter,¹ and the same Nicholas gave the same advowson, together with eight acres of meadow, to this same Matthias and to the heirs of his body begotten. And after the death of

¹ For the full names, see p. 463, note 1.

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agarde primes execut; par quei puis qe nous A.D. 1346. assignoms un defaute en luy quel poet terminer ceste original, tantqe cel defaute soit ajugge come avant est dit, nous ne serroms pas mys a counter. Et auxi, Sire, en mesme le *Quare impedit* en quel il apparust le primer jour il y ad un J. nome, qest ycy¹ prest, &c., qe prie qe M. counte vers luy.—*Grene.* Nous sumes demande a un original par quel A. est pleintif, et il ne voet pas counter; par quei nous prioms brief al Evesqe. Et quant a vostre profre, nous ne sumes pas demandez en cel original; par quei, &c.—*Skip.* Donqes pernoms voz recordez qil ne voet pas counter vers J., et prioms pur luy brief al Evesqe. Et auxi al primer jour il desavowa mesme la sute, quel il ne poait faire pur la continuaunce pris sur mesme le brief,² et adonqes navoit pas volu de counter vers nous; et le debat entre luy et J.³ nest pas cause qil ne luy covient counter vers nous, si vers J., et ceo ne voet il pas faire; par quei, &c.—*SCHARS.* Le desavowement qe fut fait ne fut pas fait mes condicionel, quel desavowement semble a nous qe vous ne poetz faire; par quei il covient qe vous soietz mys a counter solonc ceo qe en vostre condicionel plee fut parle; par quei countez si vous voillettz, ou nous vous deliveroms tantost.—Par quei *Nottone* counta pur M. vers A. et J. qe a luy appent a presenter, pur ceo qun Nichol, soun pere, fut seisi del avowesoun come de fee et de dreit, et presenta un W., le quel N. dona mesme lavowesoun, ensemblement od viij. acres de pree, a mesme cestuy M. et a les heirs de son corps engendres. Et apres la mort

¹ I., issi.² I., sur le primer brief pris,

| instead of pris sur mesme le brief.

| ³ I., A.

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A.D. 1346. Nicholas, Matthias gave the advowson, with the meadow, to his mother for term of her life, and she presented one Robert,¹ by reason of whose death the church is now void. And his mother is now dead, and he is now in possession as in his reversion, and so it belongs to him to present.—*Skipwith*. We tell you, on behalf of Alexander, that what he calls eight acres of meadow is sometimes arable land, and sometimes pasture, at the will of the tenant, and that the advowson is appendant to those eight acres, and Nicholas, of whom he has spoken, presented as if it were appendant, and continued that estate during his whole life. And, after his death, because the eight acres are partible between males, as being of the fee of the Earl of Richmond, those eight acres, together with the advowson, descended to the plaintiff and to

¹ For the full name see p. 463, note 1.

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N. il dona lavowesoun, od le pree, a sa mere a A.D. 1346.
 terme de sa vie, la quel presenta un R., par qi
 mort leglise est ore voide. Et sa mere est ore
 morte, et il est ore eins come en sa reversion, et
 issint appent a luy a presenter.¹—*Skip.* Nous vous
 dioms, pur Alisaundre, qe ceo qil appelle viij. acres
 de pre est a la foitz terre arable, et a la foitz
 pasture, a la volunte le tenant, as queux viij. acres
 lavowesoun est appendant, le quel Nichol de qil il
 ad parle presenta come appendant, et cel estat
 continua tut sa vie. Et, apres sa mort, pur ceo qe
 les viij. acres sont departables entre madles, come
 del fee de R., si descenderent les viij. acres ensemble-
 ment od lavowesoun al pleintif et a luy et a J.

¹ The speeches preceding the declaration are not represented on the roll. The declaration there is:—“ quod quidam Nicholaus de Leeke, miles, fuit seius de advocatione ecclesiæ prædictæ, . . . tempore Edwardi Regis avi domini Regis nunc, qui ad eandem ecclesiam presentavit quendam Walterum de Spaldynge, clericum suum, qui ad præsentationem suam fuit admissus et institutus, . . . tempore ejusdem Regis Edwardi avi, qui quidem Nicholaus advocationem ecclesiæ prædictæ, et octo acres prati, cum pertinentiis, in Leeke, per nomen duarum placearum prati, per scriptum suum dedit et concessit ipsi Matthiæ qui nunc queritur, per nomen Matthiæ filii ejusdem Nicholai, tenenda sibi et heredibus et assignatis suis in perpetuum, virtute quarum donationis et concessionis idem Matthias seius fuit de eisdem advocatione et prati, et ea post modum concessit cuidam Isabellæ de Leeke, matri sue, tenenda ad totam vitam ejusdem Isabellæ, ita quod post mortem ipsius Isabellæ prædicta advocatio et pratum ad ipsum Matthiam et heredes suos reverterentur, virtute cujus cessionis endem Isabella seisia fuit de advocatione et prato prædictis, quo tempore ecclesia prædicta vacavit per mortem prædicti Walteri, per quod eadem Isabella præsentavit ad eandem quendam Robertum de Leeke, clericum suum, qui ad præsentationem suam fuit admissus et institutus, . . . tempore domini Regis nunc, quæ quidem Isabella obiit, per quod idem Matthias intravit in advocatione et prato prædictis, ut in reversione sua, &c. Et postea prædictus Robertus de Leeke per prædictam Isabellam præsentatus, &c., obiit, per cuius mortem ecclesia illa modo vacat. Et, quia idem Matthias seius est de advocatione et prato prædictis, pertinet ad ipsum Matthiam ad prædictam ecclesiam præsentare.”

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A.D. 1346. Alexander and John, as to three sons and heir, and they were seised in common by des
And we tell you that the plaintiff gave the adv
to our mother for term of her life, and afterw
assigned the eight acres to our mother to hold
dower, we being then under age, whereupon the ch
became void, and she presented, as he has said,
that presentation made by her, since she was purch
of the advowson, and not tenant of it in dower,
in the turn of Matthias, who is the eldest son.
we tell you that our mother is dead, and we have
entered upon the eight acres as in our reversion,
and are seised in common with you. And this is
second voidance, which is our turn, as being
middle son, and so it belongs to us to present, *ab
hoc* that Nicholas enfeoffed the plaintiff of the e
acres or of the advowson; ready, &c. And we do
judgment, and pray a writ to the Bishop. And, a

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come a iij. fitz et un heir, et eux seisiz en comune A.D. 1346.
 par descente. Et vous dioms qe le pleintif dona
 lavowesoun a nostre mere a terme de sa vie, et
 puis assigna les viij. acres a nostre mere a tenir en
 dowere, nous adonques esteauntz deinz age, par quei
 leglise se voida, et ele presenta come il ad parle, quel
 presentement fait par luy, pus quele fut purchaceour
 de cele, et ne mye tenant en dowere, fut en le tourn
 M. qest fitz eisne. Et vous dioms qe nostre mere
 est morte, et nous sumes entre en les viij. acres come
 en nostre reversion, et seisiz sumes en comune od
 vous. Et ceste la secunde voidaunce, qest nostre tourn
 qe sumes milieu, et issi appent il a nous a presenter,
 saunz ceo qe Nichol enfeffa le pleintif de les viij.
 acres ou de lavowesoun; prest, &c. Et demandoms
 jugement, et prioms brief al Evesqe.¹ Et quant a

¹ The plea on behalf of Alexander was, according to the record, "quod prædictæ placeas de quibus præfatus Matthias in narratione sua facit mentionem, aliquibus annis sunt terra arabilis, et aliquibus annis pratum, et aliquibus annis pastura, pro voluntate illorum qui placeas illas tenerint, ad quas quidem placeas advocatione ecclesie prædictæ pertinuit tempore quo prædictus Nicholaus seisitus fuit de placeis illis, et adhuc pertinet. Et idem Nicholaus, seisitus de advocatione prædicta, tanquam pertinente ad prædictas placeas, præsentavit ad eandem ecclesiam prædictum Walterum de Spaldynge, qui in forma illa admissus fuit ad eandem, &c., qui quidem Nicholaus de placeis illis et advocatione prædicta tanquam pertinente, &c., obiit seisitus, post cujus mortem prædictæ placeas simul cum advocatione

" prædicta descenderunt prædicto Matthiæ, et ipsi Alexandro, et præfato Johanni, ac cuidam Edmundo, ut filiis et heredibus prædicti Nicholai, eo quod placeas illas sunt de tenura feodi Comitis Richemunde, et tenentur in socagio, et sunt partibiles inter heredes masculos, &c., et inde seisi fuerunt, &c., quo tempore iidem Alexander, Johannes, et Edmundus fuerunt infra etatem, &c. Et prædictus Matthias statum suum quem habuit in advocatione prædicta concessit præfatae Isabellæ matri sue tenendum ad terminum vite ejusdem Isabellæ. Et postmodum assignavit placeas illas eidem Isabellæ tenendas simul cum aliis tenementis nomine dotis eam contingentis de libero tene- mento quod fuit prædicti Nicholai quondam viri sui, &c. Et post mortem ejusdem Isabellæ iidem Matthias, Alexander, Johannes,

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A.D. 1846. John, *Skipwith* said as above, and that he did not claim anything in the presentation at present, saving to himself his turn on a future occasion, &c. And he said that Nicholas presented to the same church as being appendant to the eight acres, and demanded judgment of the count.—*Pole*. As to that answer both of Alexander and of John we will imparl. And we pray that Alexander do count against us on the writ which he brought against us.—Therefore Alexander was called with respect to that writ, and he answered by attorney.—*Thorpe* said, on behalf of Alexander, that he ought not to count on that original writ, for (said *Thorpe*) on your original writ we have made a claim to the advowson, and we have shown that it

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J. il dit *ut supra*, et il ne cleyme riens en le A.D. 1346. presentement a ore, sauve a luy autrefoitz son tourn, &c. Et dit qe Nichol presenta a mesme leglise come appendant a les viij. acres, et demanda jugement de counte.¹—*Pole*. Quant a cel respons del un et del autre nous voloms enparler. Et prioms qe al brief qe A. porta vers nous qil counte vers nous.—Par quei a cel brief il fut demande, qe respondi par attourne.—*Thorpe*, pur A., dit qil ne covient pas counter en ceste original, qar en vostre original nous avoms clame en lavowesoun, et avoms moustre qe a

“ et Edmundus intraverunt in
“ placeis illis et advocatione præ-
“ dicta in communi, &c. Et inde
“ seisisi sunt in communi, &c. Et
“ quo ad præsentationem prædicto
“ Roberto per prædictam Isabellam
“ factam dicit quod illa vacatio fuit
“ prima vacatio de ecclesia prædicta
“ post mortem prædicti Nicholai, et
“ turnus præfati Matthias ipsum
“ contingens ut filium prædicti
“ Nicholai antenatum, &c. Et quia
“ ista vacatio nunc est secunda
“ vacatio post mortem prædicti
“ Nicholai pertinet ad ipsum
“ Alexandrum ut filium prædicti
“ Nicholai proxime postnatum,
“ &c., ut in turno suo ipsum con-
“ tingente, &c., ad prædictam
“ ecclesiam præsentare. Et status
“ quem idem Matthias habet in
“ placeis illas ad quas, &c., est
“ in communi cum ipsis Alexandro,
“ Johanne, et Edmundo, eo quod
“ placeas illas sunt partibiles inter
“ heredes masculos, &c., de quibus
“ placeis prædictus Nicholaus obiit
“ seisisus, absque hoc quod præ-
“ dictus Matthias unquam aliquid
“ habuit ex dono præfati Nicholai,
“ &c. Ethoc paratus est verificare,
“ unde petit judicium, et breve
“ Episcopo, &c.”

¹ The plea on behalf of John was, according to the record, “ Dicit, in forma qua prædictus Alexander superius dixit, quod prædicta advocatione fuit pertinens prædictis placeis, et adhuc est, et quod prædictus Nicholaus tanquam pertinentem præsentavit, &c., et quod placeas illas et advocatione prædicta descenderunt ipsis Matthiæ, Alexandro, Johanni, et Edmundo post mortem prædicti Nicholai, &c., et quod prædictus Matthias statum suum de advocatione illa concessit præfatis Isabellæ, et placeas illas post modum eidem Isabellæ assignavit nomine dotis, &c., et quod, post mortem ejusdem Isabellæ, ipsi seisisi sunt de placeis illis, et de advocatione prædicta in communi, &c., et quod prædicta præsentatio per prædictam Isabellam facta fuit turnus prædicti Matthiæ, &c., et quod vacatio ista est turnus prædicti Alexandri, &c. Unde, salvo sibi jure suo præsentandi ad ecclesiam prædictam in turno suo cum acciderit, dicit quod ipse non impedivit ipsum præsentare ad eandem, &c. Et hoc paratus est verificare, unde petit judicium, &c.”

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A.D. 1346. belongs to us to present, and in that case each of us is in the position of plaintiff against the other; therefore, if we were to be put to count on this original, we should be supposing that we could deraign our claim twice over; and that conclusion is false. And, moreover, if an issue of the plea were joined on the one writ, and we were put to count on the other, the law would give you the advantage of giving another issue thereon, which is not permissible; therefore, &c.—*Pole*. It is not so, for the issue which is joined in the one plea will serve for both; but that does not prove that it is not necessary that you should count: for, when the writ has been served and returned, if you will not prosecute your suit, the King will have an amercement; therefore, although you have answered to my writ, and made a claim to the advowson, that does not discharge you of your suit, so that you must either count on your original or be nonsuited for the King's advantage.—*Thorpe*. That which we have given for answer to your original we wish to serve as our count.—*Pole*. And, inasmuch as you do not state your count in legal form, we demand judgment of your nonsuit.—*SHARSHULLE*. If you abide judgment on that absolutely, the judgment will put an end to one suit as well as the other, and therefore consider.—And it was said, with regard to *Thorpe's* statement, that it was sufficient without counting in legal form.—Therefore *Pole* went out to imparl, and came back, and said:—Alexander has given an answer, and has made a claim to the advowson, and John has traversed our count, and has also made a claim to the advowson, and that is a different answer from the one which Alexander has given, and we pray that they be put to join in one answer.—*Skipwith*. You have supposed a tortious disturbance, and John cannot be convicted on Alexander's plea, and therefore

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nous appent a presenter, en quel cas chescun de A.D. 1346 nous est actour vers autre; par quei si nous fuissoms mys a counter en ceste original, nous supposeroms qe nous purrioms deux foitz deresner; *consequens falsum*. Et auxi si un issue de plee fuist joyst en lun, et nous fuissoms mys a counter, la ley vous durreit avantage de doner a cele autre issue, qe nest pas soeffrable; par quei, &c.—*Pole*. Il nest pas issi, qar lissue qest joint en lun plee servira pur lun et pur lautre; mes ceo ne prove pas qil ne covient qe vous countez; qar, quant le brief est servi et retourne, si vous ne voilletz suir, le Roi avera lamerciement; par quei, mesqe vous eietz respondu a moun brief, et clame en lavowesoun, ceo ne vous descharge pas de vostre sute, qe ou il covient qe vous countez sur vostre original ou qe vous soietz nounsuy en avantage le Roi.—*Thorpe*. Ceo qe nous avoms done pur respons a vostre original nous voloms pur counte.—*Pole*. Et de ceo qe vous ne dites pas en forme de lei nous demandoms jugement de vostre nounsute.—*SCHARS*. Si vous demurez la tut attrenche, le jugement terminera lune sute et lautre, et pur ceo avisetz vous.—Et fut dit qe de ceo qe *Thorpe* dit suffit saunz counter en forme de lei.—Par quei *Pole* issist denparler, et revient, et dit qe A. ad done un respons, et ad clame en lavowesoun, et J. ad traverse nostre counte, et auxi ad clame en lavowesoun, qest autre respons qe A. nad done, et prioms qils soient mys de joindre en un respons.—*Skip*. Vous avetz suppose torcinouse destourbaunce, et par le ple A. J. ne serra pas atteint, par quei

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A.D. 1346. the law gives them several answers ; for one of them cannot be compelled to hold to the answer of the other, nor *e converso* ; and, inasmuch as you do not answer to their pleas, judgment, &c.—WILLOUGHBY. If he took issue on both pleas, and the finding were in his favour against John, and against him in favour of Alexander, a writ to the Bishop would be awarded for him, and against him also ; if the finding were in favour of Alexander and John against the plaintiff, each of them would have severally a writ to the Bishop, and that would be inconsistent ; therefore it seems that he shall not be charged with both your pleas.—*Thorpe*. John has not, as to the present time, made any claim to the presentation, but to the patronage ; therefore an issue found in his favour will not give him a writ to the Bishop by reason of his disclaimer with regard to this presentation.—*Grene*. Though he does not claim anything in this presentation now, he makes a claim to the patronage, and to have, in the event of the issue being found in his favour, the next presentation, and that presentation on the next voidance, if the verdict on the issue be in his favour, will be executed by virtue of the judgment rendered on that verdict just as much as in the case of the presentation which has now occurred ; therefore, just as he would not have enjoyed the presentation if he had affirmed in himself a title to present on this occasion separately from A., so he will not do so any more in respect of a presentation which he claims to have on the next voidance ; therefore, &c.—WILLOUGHBY. Answer to Alexander's plea, and we shall then be able to deal with John's plea.—*Grene*. Sir, give judgment that we are to be discharged of John's plea, and we will willingly answer to Alexander's plea.—WILLOUGHBY. Deliver yourself with regard to Alexander.—*Notton*. Willingly, Sir. You

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leie doune a eux several respons; qar lun serra pas A.D. 1346.
 arce de prendre al respons lautre, *nec e converso*; et,
 de ceo qe vous ne responez pas a lour plees,
 jugement, &c.—*WILBY*. Sil prist issue al un plee et
 al autre, et fut trove¹ pur luy vers J., et rencontre
 luy pur A., homme agardereit pur luy brief al Evesqe,
 et rencontre luy auxi; sil fut trove pur A. et J.
 rencontre le plaintif, chesqun de eux averoit brief
 al Evesqe severalment, qe serreit inconvenient; par
 quei il semble qil ne serra pas charge de voz deux
 plees.—*Thorpe*. J. nad rienz clame, quant a ore, en
 le presentement, mes en lavowere; par quei un issue
 trove pur luy ne luy durra pas brief al Evesqe pur
 le desclamance en ceste presentement.—*Grene*.
 Coment qil ne cleime rienz en ceste presentement a
 ore, il cleime en lavowere, et a aver, par lissue
 trove pur luy, le prochein presentement, quelle
 presentement a la prochein voidaunce, si lissue passe
 pur luy, serra execut par le jugement taille sur cel
 verdit auxi avant come del presentement qest a ore
 avenu; par quei nent plus qe sil ust afferme title
 de presenter en luy a ore several de A. il nel ust
 enjoye, nent plus ne fra il dun presentement quel
 il cleyme a aver a la prochein voidaunce; par quei,
 &c.—*WILBY*. Responez al plee A., et nous froms
 bien del plee J.—*Grene*. Sire,² ajuggetz qe nous
 serroms descharge del plee J., et nous respondroms
 volunters al plee A.—*WILBY*. Deliveretz vous
 de A.—*Nottone*. Sire, volunteers. Vous veietz bien

¹ The words et fut trove are omitted from I. | ² Sire is omitted from I.

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A.D. 1346. see plainly how we have counted that Nicholas, our father, enfeoffed us of the eight acres and of the advowson, and we have made *profer* of a deed which testifies the fact; therefore, since you have claimed to be one of the heirs of Nicholas by reason of the land being partible, we ask you whether this is your ancestor's deed or not.—*Skipwith*. And since you have by your count made yourself heir to Nicholas, and you put us to answer as to the deed as one of his heirs, and that by reason of this partible land which has descended to us, we therefore pray that the Court do hold it as not denied by you that the land is partible; and you have not denied that Nicholas died seised, nor that the land came by descent to us in common with you, and therefore we demand judgment, &c.—WILLOUGHBY to the plaintiff. Will you say anything else? for it seems that you are jesting with us; therefore deliver yourself, or we will deliver you.—NOTTON. Sir, we make protestation that we do not acknowledge that which they have said, but we tell you that Nicholas gave us the eight acres with the advowson, and that we leased them to our mother for term of her life, and we entered after her death, and were seised as in our reversion when the church became void. And, whereas they have said that Nicholas died seised, *absque hoc* that we have anything by gift from Nicholas, we say that Nicholas gave us the eight acres with the advowson as we have counted; ready, &c.—*Skipwith*. You have claimed the advowson as being in gross by your declaration, and in your replication to our answer you have said that you were sole seised of the eight acres at the time at which the church became void, and are so this day, and that would have sufficed to give you a writ to the Bishop if you had not claimed the advowson in gross by your count; and further you have tendered

No. 1.

coment nous avoms conte qe Nichole, nostre pere, A.D. 1346.
nous enfeffa de les viij. acres et del avowesoun, et
de ceo avoms mys avant fait qe le tesmoigne ; par
quei, puis qe vous avez claime destre un des heirs
Nichole par cause de terre departable, nous vous
demandoms si ceo soit le fait vostre auncestre ou
nient.—*Skip.* Et de puis qe par vostre conte vous
vous avez fait heir a Nichole, et vous nous mettez
a respongure al fait com un de ses heirs, et ceo
par cause de cele terre departable a nous descendu,
par quei nous prioms qe la Court tiegne a nent
dedit de vous qe la terre est departable ; ne vous
navetz pas dedit qe N. murust seisi, ne terre par
la descente avenu¹ a nous en comune od vous, par
quei nous demandoms jugement, &c.—*WILBY.* al
pleintif. Voletz autre chose dire ? qar il semble qe
vous nous mokez ; par quei deliveretz vous, ou
nous vous deliveroms.—*Nottone.* Sire, nous fesoms
protestacion qe nous ne conissons pas ceo qils ount
dit, mes nous vous dioms qe N. nous dona les viij.
acres od lavowesoun, et qe nous les lessames a nostre
mere a terme de sa vie, et apres sa mort nous
entrames, et seisiz fumes com en nostre reversion
quant leglise se voida. Et, la ou ils ount dit qe
N. murust seisi, saunz ceo qe nous navoms rienz del
doun N., qe N. nous dona les viij. acres od lavoweson
come nous avoms conte ; prest, &c.—*Skip.* Vous
avez claime lavoweson come un gros par vostre
demoustraunce, et en vostre replicacion contre nostre
respons vous avez dit qe vous futes soul seisi de
les viij. acres en temps qe leglise se voida, et huy
ceo jour estes, quel suffit de vous doner brief al
Evesqe si vous nel ussetz claime un gros
par vostre conte : et outre vous avez tendu

¹ H., nostre possessiouen par | par la descente avenu.
la descente, instead of terre |

No. 1.

A.D. 1346. the averment that Nicholas gave and granted you the eight acres with the advowson, and we will aver the contrary of that gift of the eight acres, and that Nicholas did not give him the eight acres; and if he tenders the averment in the sense that Nicholas granted the advowson although he did not give the land, and will disclose his matter, we will abide judgment with him on the point that, since he has not denied the appendancy, Nicholas could not give the advowson without the land to which it is appendant.—*Grene*. Certainly, if the church were mine I would put it, at all hazards, to judgment on that point, that is to say, that he could give the advowson, and retain the land for himself; but nevertheless my client will not do so. But you see plainly how in their first answer they tendered the averment that we had nothing by gift from Nicholas, which applied generally to the advowson as well as to the land, and that averment we have contradicted, and now they will not maintain it; therefore we demand judgment, and pray a writ to the Bishop.—*WILLOUGHBY* to *Skipwith*. If you wished to put that point to judgment, you ought to have pleaded in another manner, as by alleging the appendancy, and have tendered the averment that he had nothing in the eight acres by gift from Nicholas; but now you have denied that he had anything by gift from Nicholas, which denial refers as much to the advowson as to the land, and he has traversed it; therefore will you maintain that of which you tendered averment at the commencement?—*Skipwith* recited his answer, and said that Nicholas died seised of the eight acres to which the advowson was and is appendant, *absque hoc* that the plaintiff had anything in the eight acres or in the advowson by gift from Nicholas; ready, &c.—

No. 1.

daverer qe N. vous dona et graunta les viij. acres A.D. 1346.
od lavoweson, quel doun de les viij. acres nous
voloms averer le contrare qe N. ne luy dona pas
les viij. acres; et sil tende laverement a tiel entente
qil graunta lavoweson coment qil ne dona pas la
terre, et desclore sa matere, nous voloms demurer
od luy en jugement qe puis qil nad pas dedit
lappendance qil ne poait doner lavowesoun et ne
mye la terre a quei, &c.—*Grene.* Certainement, si
leglise fut le meen jeo le mettray, a touz perils,
en jugement sur cel point qil purra doner lavowesoun
et retenir a luy la terre; mes nequident mon client
ne voet pas. Mes vous veietz bien coment en lour
primer respons il tendirent daverer qe nous navioms
riens del doun N., quel fut general auxi bien al
avowesoun come a la terre, quel averement nous
avoms contrare, et ore ils ne voilent meintenir; par
quei nous demandoms jugement, et prioms brief al
Evesqe.—*Wilby.* a *Skip.* Si vous voudrietz aver
mys cel point en jugement, vous dussetz aver plede
en autre manere, come daver allegge lappendance,
et aver tendu daverer qil navoit rienz en les viij.
acres del doun N.; mes ore avetz dedit qil navoit
rienz del doun N., quel refiert auxi avant a
lavoweson come a la terre, et ceo ad il traverse;
par quei voletz meintenir ceo qe vous tendistes
daverer a commencement. — *Skip.* rehercea son
respons, et dit qe N. murust seisi de les
viij. acres as queux lavoweson fust et est
appendant, sanz ceo qil navoit rienz en les viij.
acres ou en lavowesoun de son doun; prest, &c.—

No. 1.

A.D. 1346. And his issue was entered in that manner.—*Skipwith.*
Now we pray that he answer to the plea which John has pleaded in abatement of his count.—*Grene.* Since John has claimed nothing in the presentation now, although he has made a claim to the patronage to have the next presentation, it does not lie in his mouth to plead against our declaration, but we will aver disturbance to have been made by him as we suppose by our writ.—*Thorpe.* And we demand judgment since you have attached disturbance in our person, and we have claimed the patronage to have the next presentation, and we have tendered the averment that Nicholas presented to the church as being appendant in order to abate your count, the

No. 1.

Et soun issue par la manere entre.¹—Skip. Ore A.D. 1346.
prioms qil respoigne al plee qe J. ad plede en abatement de soun counte.—Grene. Puis qe J. nad rienz clame en le presentement a ore, coment qe il eit clame en le patronage daver le prochein presentement, en sa bouche ne gist il pas a pleder de nostre demoustraunce, mes voloms averer la destourbaunce en luy come nous supposoms par nostre brief.
—Thorpe. Et nous demandoms jugement puis qe vous avetz attache destourbaunce en nous, et nous avoms clame en le patronage daver le prochein presentement, et avoms tendu daverer qe N. presents come appendant pur abatre vostre counte, quele

¹ The replication on behalf of Matthias immediately follows the plea on behalf of John on the roll, and is:—"Matthias, non cognoscendo " prædictam advocationem fuisse " pertinenter prædictis placeis, " &c., nec præfatum Nicholaum " præsentasse tanquam pertinen- " tem, &c., nec prædictum " Nicholaum fuisse inde seisinus " tempore mortis sue, nec placeas " illas esse partibiles, &c., nec " assignationem dotis, nec conces- " sionem advocationis præfatae " Isabellæ fuisse factas in forma " qua ipsi superioris allegarunt, nec " tenenciam ipsorum inde esse " in communi sicut prædictus " Alexander superioris allegat, dicit " quod prædictus Nicholaus dedit " et concessit advocationem præ- " dictam, et prædictum pratum per " nomen predicatorum placearum " ipsi Matthei ut ipse in narratione " sua prædicta supponit, virtute " quarum donationis et concessionis " ipse inde seisisitus fuit, et statum " illum continuavit tota vita ipsius " Nicholai, et postea, quousque " easdem advocationes [sic] et " placeas dimisit præfatae Isabellæ " tenendas ad totam vitam ejusdem " Isabellæ, reversione inde ad " ipsum Matthiam et heredes suos " spectante, quæ quidem Isabella " ad ecclesiam prædictam præfatum " Robertum, ut idem Matthias " superiorus narrando dixit, præsen- " tavit, et postmodum de tali statu " obiit inde seisisita, post cujus " mortem ipse Matthias intravit in " advocatione et placeis prædictis " ut in reversione sua, et statum " suum inde continuavit quousque " prædicta ecclesia vacavit per " mortem prædicti Roberti, et " usque nunc, et sic solus inde " seisisitus est. Et, ubi prædictus " Alexander superiorus dicit ipsum " Matthiam nihil habuisse in " placeis et advocatione supradictis " de dono præfati Nicholai, idem " Matthias seisisitus fuit de advoca- " tione et placeis p . . [roll cut] " virtute donationis et concessionis " prædicti Nicholai, sicut ipse in " narratione sua prædicta dicit." Issue was joined on this as between Matthias and Alexander,

No. 2.

A.D. 1346. contrary of which you do not maintain; judgment whether you can affirm disturbance in his person on such a declaration in opposition to that which he has said.—And in the end, because John had not claimed anything in the presentation now, but had disclaimed it, judgment was given that he would not have to counterplead the plaintiff's title, or plead any other plea except denying the disturbance.

Annuity. (2.) § The Bishop of Winchester brought a writ of Annuity against a person of Holy Church. The Sheriff returned that the defendant had no lay fee, but was a clerk beneficed in the bishopric of Winchester. The

No. 2.

chose en le contrare ne maintenez pas ; jugement A.D. 1346.
 si en luy sur tiele demoustrance encountre ceo qe
 il ad dit poetz destourbaunce affermer.—Et au
 drein, pur ceo qil navoit rienz clamé en ceste
 presentement a ore, mes avoit en cele desclame, fut
 agarde qil navereit pas a contrepleder le title le
 pleintif, ne nul autre plee, mes a dedire la
 destourbaunce, &c.¹

(2.)² § Levesqe de Wyncestre porta un brief Annuite.
 Dannuyte vers une personne de Seinte Eglise. Le ^{Fitz.,}
 Proces, Vicounte retorna qil navoit nul lay³ fee, mes fut 42.]
 clerk benefice en levesche de Wyncestre. Le pleintif

¹ The replication to John's plea immediately follows the joinder of issue on the replication to Alexander's plea on the roll, and is in the following form :—“Quo ad “hoo quod prædictus Johannes “superius controplacitavit jus et “titulum ipsius Matthiæ in hac “parte petit quod ipse de placito illo “exoneretur, ex quo idem Johannes “nihil clamat ad presens in pra- “sentatione prædicta. Et petit breve “Episcopo, &c. Sed quo ad hoc quod “prædictus Johannes asserit ipsum “non impedivisse ipsum Matthiam “presentare, &c., dicit quod ipse “Johannes, simul, &c., impedivit “ipsum presentare ad eandem, “sicut ipse superius in narratione “sua supponit.”

Issue was joined upon this as between Matthias and John.

According to the roll the parties appeared on the day given on the award of the *Venire*, and “idem “Matthias dicit quod, postquam “ipsi Matthias, Alexander, et “Johannes se posuerunt in juratam “prædictam, prædicti Alexander et “Johannes, per nomina Alexandri “de Leeke, et Johannis de Leeke,

“ filiorum domini Nicholai de Leeke “militis defuncti, per scriptum “suum remiserunt, relaxaverunt, “et omnino, pro se et heredibus “suis in perpetuum, quietum- “clamaverunt ipsi Matthiæ et “heredibus suis totum jus et “clameum quod habuerunt in pre- “dicto prato et advocatione ecclesiæ “supradictæ, per nomen duarum “placearum prati cum pertinentiis, “in Leeke vocatarum West- “manoversare et advocationis “ecclesiæ de Leeke, ita quod nec “ipsi nec heredes sui aliquid juris “vel clamei in prædictis prato seu “advocatione exigere poterint in “perpetuum. Et profert hic pre- “dictum scriptum prædicatorum “Alexandri et Johannis quod “premissa testatur, unde petit “judicium. Et Alexander et “Johannes non possunt dedicere “quin prædictum scriptum sit “factum ipsorum Alexandri et “Johannis.”

Judgment was therefore given for the plaintiff Matthias.

² From H., and I.

³ I., leye.

Nos. 3, 4.

A.D. 1346. plaintiff prayed a writ to the Bishop of Winchester to cause his clerk to appear.—*Moubray*. That is not right, since you are apprised that the Bishop himself is the plaintiff, and therefore to give him a warrant for himself to distrain his opponent to come into Court to answer to him is not right; therefore, in default of the Bishop, we pray that you send to the Metropolitan to cause his clerk to come.—*HILLARY*. We will never send a writ to the Metropolitan unless we can find a default in the Bishop himself.—Therefore *HILLARY* awarded a writ to the Bishop of Winchester to cause his clerk to come, &c.

Fine.

(3.) § *Grene* levied a fine in such a manner that two men acknowledged the tenements, &c., to be the right of the plaintiff, and the plaintiff granted that two acres of land which one held for his life, and ten acres of land which another held for his life, of the inheritance of the conusors, and which, after the death of the tenants for life, were to revert to the conusors, should remain to that other and his heirs, with warranty.

Dower.

(4.) § A writ of Dower was brought in London. The tenant vouched one who was foreign to the city, and therefore the parol was adjourned into the Bench as the statute¹ purports. And now in the Bench the tenant was essoined.—And exception was taken to the essoin by *Sadelyngstanes*, on the ground that this day and the day on which the tenant vouched in London are all one day in law, and process has now to be commenced against the vouchee, and therefore, as the tenant could not have been essoined on the same day on which he vouched, no more can he be essoined now.—*HILLARY*. His appearance on this day would deprive him of the essoin, but now he has a day after a previous appearance.—Therefore the essoin was adjudged, and a day was given.

¹ 6 Edw. I. (Glouc.), c. 12; 9 Edw. I. (*Artic. Stat. Glouc.*).

Nos. 3, 4.

pria brief al Evesqe de Wyncestre a faire venir son A.D. 1346.
 clerk.—*Moubray*. Ceo nest pas resoun, puis qe vous
 estes apris qe Levesqe mesme est pleintif, par quei
 a doner garant a luy mesme a destreindre son
 adversare de venir en court de respoudre a luy
 nest pas resoun; par quei en defaute de luy nous
 prioms qe vous maundetz al Metropolitan de faire
 venir son clerk.—*HILL*. Nous ne maundroms jammes
 brief al Metropolitan si nous ne puissions trover
 defaute en Levesqe mesme.—Par quei il agarda brief
 al Evesqe de Wyncestre de faire venir son clerk, &c.

(3.)¹ § *Grene* leva une fine en tiele manere qe ij. *Finis.*
 [Fitz.,
 hommes conissoint les tenementz, &c., estre le dreit *Fynes*,
 le pleintif, et graunta qe ij. acres de terre qun tient²] a sa vie [et x. acres qun autre tient]³ a sa vie, de
 lour heritage, et qe apres lour⁴ mort a eux duissent
 revertir, remeindreint al autre et a ses heirs, od
 garrantie.

(4.)⁴ § Un brief de Dowere fut porte en Loundres. *Dowere.*
 Le tenant voucha un foreine, par quei la paroule fut *Fitz.,*
 ajourne en Baunk, [come lestatut voet. Et ore en⁵] *Essone*,
*Baunk]*³ le tenant fut essone.—Et chalaunge par
Sadel. par tant qe cest jour et le jour qil voucha
 en Loundres est tout un jour en ley, et le proces
 a ore a comencer vers le vouche, par quei nent
 plus qe a mesme le jour qil voucha il pout aver
 este essone nent plus serra il a ore.—*HILL*. Sa
 apparaunce a cel jour luy toudra lessone, mes ore il
 ad jour par apparaunce.—Par quei lessone fuit
 ajugge,⁵ et ajourne.

¹ From H., and I.

² The words between brackets are omitted from I.

³ I., sa.

⁴ From H., and I., until other-

wise stated.

⁵ I., agarde.

No. 5.

A.D. 1346. § Note that, in the city of London, a tenant Voucher. vouched one who was foreign to the city, and the record was caused to come into the Court of Common Pleas. And on that day the tenant was essoined, and exception was taken to the essoin on the ground that the Court had no other warrant than to make process against the vouchee, because the plea had come into this Court for no other purpose.—And, notwithstanding this, the essoin was allowed, and a day was given.

Right.

(5.) § One J. Vyncent brought his writ of Right against one A., and demanded ten acres of meadow, on his own seisin, and laid the esplees as in herbage and other kinds of issues from meadow, amounting, &c.—*Richemunde* repeated the words of the count and denied them, and went out to imparl, and came back, and again repeated the count and denied the words. And then *Richemunde* denied tort, and force, and J.'s right absolutely, and J.'s own seisin, on which seisin he had counted absolutely as of fee and of right, and in particular of ten acres of meadow with the appurtenances in R.; and he repeated the whole of the count, and said A. will deny this by the body of his free man, one H. by name, who is here ready to deny it by his body, or in whatsoever way the Court shall adjudge, and should ill befall this same H. (which God forbid), he is ready to deny it by another, who knows the truth and can do so.—And A.'s champion was bareheaded, and with his sleeves unfastened, and his sleeves were turned up on his arms, and he had in his right hand a glove folded, and in each finger of the glove there was one penny, and he proffered the glove to the Court, but he did not throw it into the Court until the other party had joined the wager of battle.—The demandant prayed leave to imparl.—HILLARY. Certainly you may have it; but

No. 5.

§ Nota¹ qun tenant, en la Cite de Loundres, voucha A.D. 1346.
un forein, et le recorde fuit fait² vener en la comune Voucher.
place. Et a ceo jour le tenant fut essone, et lessone
challenge pur ceo qils navoint autre garraunt forqe
de faire procees vers le vouche, qar le plee est
venutz ceinz a nulle autre effecte.—Et lessone allowe,
non obstante, et adjourne, &c.

(5.)³ § Un J. Vyncent porta soun brief de Droit⁴ Droit.
vers un A., et demanda x.⁵ acres de pree, de sa
seisine demene, et lia les esbles come en herbage et
en autre manere dissue de pree, mountant, &c.—
Richm. defendi les paroules et rehercea le counte,
et issit denparler, et revient, et defendi, et rehercea
le count arreremayn. Et donqes *Richm.* defendi tort,
et force, et le droit J. tut attrenche, et sa seisine
demene, de quel seisine il counta tut outre come
de fee et de droit, nomement de x. acres de pree
od les appurtenantz en R.; et rehercea tut le
counte, et ceo⁶ defendra il par le corps un son
franc homme H. par noun, qe cy⁷ prest est a
defendre le par son corps, ou⁸ par quanqe ceste
Court agardera, et si mesaviegne a mesme celuy H.,
qe Dieu⁹ defend, prest est a defendre le par autre,
qe sciet et poet.¹⁰—Et le champioun fut deschevele,
et desmaunché, et ses maunches reverses en ses
braces, et avoit en sa mayn destre un gaunt plie,
et en chescun deye¹¹ del gaunt un dener,¹² et profri
la gaunt a la Court, mes ne la getta pas a la Court
tauntqe lautre partie avoit rejoints.—Le demandaunt
pria conge denparler.—HILL. Vous averetz bien; mes

¹ This report of the case is from L., and C.

² C., fet.

³ From H., and I.

⁴ I., xx.

⁵ I., se.

⁶ I., si.

⁷ I., et.

⁸ I., Deu.

⁹ I., cy est et prest, instead of societ et poet.

¹⁰ I., day.

¹¹ H., deneer.

No. 5.

A.D. 1346. you must return this same day, without having any longer delay; for your champion must be ready at all times, since you are demandant.—Therefore he went out to imparl, and came back, and said, by *Birton*:—You see plainly how we have demanded ten acres of meadow (and he recited the whole of his count), whereupon, Sir, the tenant has appeared and has said, &c. (and he recited all that the tenant had said), and he tortiously denies our right absolutely, and our own seisin of which we have counted absolutely as of fee and of right, and in particular in respect of ten acres of meadow with the appurtenances in R., and tortiously because we were ourselves seised thereof in our demesne as of fee and of right, in time of peace, in the time of our Lord the King that now is (whom God preserve), and took the esplees, &c. And the demandant is ready to deraign that which he has said by the body of his free man, one C. by name, who is here ready to deraign it by his body, or in whatsoever way the Court shall adjudge, and if any ill shall befall this same C. (which God forbid) he is ready to deraign it by another who knows the truth and can do so.—And the demandant's champion threw forward a glove folded.—And then the defendant's champion threw forward his glove.—And the COURT accepted both.—WILLOUGHBY and HILLARY said to the demandant and to the tenant that they must find pledges to carry out the battle, and also that neither of the champions should injure or molest the other either secretly or openly. And so they did.—And, after the pledges had been found, the gloves were redelivered to the champions, to each of them his own glove, with the pennies which were therein.—And the parties were told that they must pay strict attention to the champions, and that they must keep their day on the morrow of All Souls, but this was

No. 5.

il covient qe vous retournez a mesme cest journe, A.D. 1346.
 saunz pluis longe delaie avoir; qar vostre chaumpion
 serra tutefoitz prest, puis qe vous estes demandant.
 —Par quei il issist denparler, et revient, et dit, par
Birtone:—Vous veietz bien coment nous avoms
 demande x. acres de pree—et rehercea tut son
 counte—a quei, Sire, le tenant est venu et ad dit,
 &c.—et rehercea quantqil avoit dit—et dit qe atort
 defend¹ il nostre droit tut attrenche, et nostre seisin
 demene, de quel nous avoms counte tut outre come
 de fee et de droit, nomement de x. acres de pree
 od les appurtenantz en R., et pur ceo atort qe
 nous mesmes fumes seisiz de cele en nostre demene
 come de fee et de droit, en temps de pees, en temps
 nostre seignur le Roi qore est, qe Dieu garde, les
 esplez prist, &c. Et ceo est il prest a deresnere
 par le corps un son fraunk homme C. par noun,
 qe cy prest est, &c., a deresner le par son corps, ou
 par quanqe ceste Court agardera, et si mesaviegne
 a mesme cesti C., qe Dieu² defende,¹ prest est a
 deresner le par autre qe sciet³ et poet.—Et cel
 chaumpioun getta avant un gaunt plie.—Et adonques
 le chaumpioun le defendant getta avant le soen.⁴
 —Et la COURT resceuut lun et lautre.—WILBY. et HILL.
 disoient al demandant et tenant qil les covient
 trover plegges a parfourner la bataille, et auxi qe
 nul de les chaumpiouns fra mal ne moleste en
 prive ne en apperte a autre. Et issi fesoient.—Et,
 apres qe les plegges furent trovez, les gauntes furent
 rebailles a les chaumpiouns, a chesqun soun gaunt
 propre, od les deners qe leinz furent.—Et fut dit as⁵
 parties qils donassent bon garde as les chaumpiouns,
 et qils gardassent⁶ lour jour a lendemeyn des Almes

¹ H., defend.² I., deu³ I., seet.⁴ H., seon.⁵ I., a les.⁶ H., gardereint.

Nos. 6-8.

A.D. 1346. without causing the champions to make oath as they did in the Northamptonshire Eyre.—And it was said that the five pennies which were in each glove would be offered by the champions.

Waste. (6.) § The Earl of Hereford brought a writ of Waste against the Countess of Hereford, and the inquest of waste was taken before Justices of *Nisi prius*, and returned last Term, as there appears.¹ And then they prayed judgment on the verdict found. And they were adjourned until now, by reason of difficulty, on the verdict. And now the Countess was essoined.—See the judgment.—And exception was taken by *Notton* that an essoin does not lie after verdict.—And nevertheless *HILLARY* caused the essoin to be adjudged, and a day to be given,² &c.

Waste. § Note that after a verdict had passed on a writ of Waste, by reason of difficulty with respect to the judgment, the parties had a day from one Term to another, and on the day which they had the defendant was essoined.—See the judgment.—And the essoin was allowed, &c.

Assise of Novel Disseisin. (7.) § In an Assise of Novel Disseisin the tenant challenged the array on the ground that it was made by the bailiff of a liberty who was a maintainer in the matter, and the contrary of this was found by trial. And afterwards he challenged the polls, and he was put to state a cause why he challenged, before the panel was examined. But on the challenge of the other party cause was not shown until the panel was examined. And the reason was that a challenge had been given by the tenant in order to abate the whole array, &c.

Assise of Darrein Presentment. (8.) § An Assise of Darrein Presentment was brought. Three triers were sworn, and one man was

¹ See Easter, 20 Edw. III., No. 65. | ² See Mich., 20 Edw. III., No. 33.

Nos. 6-8.

saunz faire les chaumpiouuns jurer come ils fesoient A.D. 1346.
en le Eire de Northamtone.—Et fut dit qe les v.
deners qe furent en chesqun gaunt serront offertz
par les champiouuns.¹

(6.)² Le Counte de Herford porta brief de Wast *Wast.*
vers la Countesse, et lenquest de wast pris devant [Fitz.,
Justices de *Nisi prius*, et retourne le dreyн terme, 29.]
ut patet. Et adonques sur le verdict trove il prierent
jugement. Et adjourne tanqe a ore, pur difficulte
sur le verdict.—Et ore la Countesse fuist essone.
Vide judicium.—Et chalange par Nottone qil ne gist
pas apres verdict.—Et non obstante Hill. le fist
ajugger, et ajourner, &c.

§ *Nota*³ qe, apres verdict passe sur un brief de Wast.
Wast, pur⁴ difficulte del jugement, les parties avoient
jour dun terme en un autre, et al jour qils avoient
le defendant fuit essone.—*Vide judicium.*—Et fuit
allowe, &c.

(7.)⁵ § En Assise de novele disseisine le tenant Assise de
challengea larraye pur ceo qe il fust fait par le Novele
baillif dune fraanchise qe fut meyteinour de la Disseisine.
bosoin, et le contrare de ceo fut trie. Et apres [Fitz.,
Challenge. 116.]
il challengea les testes, et fut mys a dire cause pur
quei, avant le panel peruse. Mes al chalaunge del
autre partie cause ne fut pas moustre tanqe le
panel fut peruse. Et ceo fut pur ceo qe le chalaunge
fust done par lui dabatre tut larraye, &c.

(8.)⁶ § Assise de drein presentement porte. iij. Assise de
triours furent jurez, et un homme chalange, et drein
presentement.

¹ The words serront offertz par ³ This report of the case is from [Fitz.,
les champiouuns are omitted from I. L., and C. Trial, 68.]

² From H., and I., until otherwise stated. ⁴ L., sur.

⁵ From H., and I.

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A.D. 1346. challenged, and upon that challenge they were charged, and they could not agree, for two of them were of one opinion, and the third of the contrary opinion. Therefore the Justices caused two who had been challenged, that is to say, one on the one side, and the other on the other side, to be triers with the others, without accepting the trial in accordance with the opinion of the majority who were in agreement. Therefore the five were charged with regard to the same challenge, and three of them were of one opinion, and the other two of the contrary opinion. And, without acceptance of the trial in accordance with the opinion of the three as being the majority, the five were commanded to abide in one chamber, without eating or drinking, until they agreed. And on the morrow they had agreed, and as the result of their trial they rejected the man who had been challenged, and also all the others who were included in the panel. Therefore, by reason of the challenges which were given against the triers by the parties objecting to their inclusion in the inquest, these challenges as against two were tried by the three others, and the two were rejected; and of the three one was tried by the two others, and was accepted as a good juror to be upon the inquest. And by this one, who was so accepted as a good juror, and by one of the two remaining triers, the other of those two was tried and accepted as a good juror. And the one remaining was tried by the two who had been tried and accepted as good jurors, and rejected because he had taken [a bribe] as was alleged when he was challenged. Therefore the two who had been tried and accepted as good jurors were sworn as to the principal matter at issue. And the plaintiff ~~prayed a Nisi prius~~; and he could not have it because part of the inquest had been sworn in this Court, and

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sur cele¹ chalaunge eux charges, qe ne purroient A.D. 1346. acorder, qar les deux furent dune assent, et le terce al encountre. Par quei les Justices fesoient deux qe furent chalanges, saver lun² del une part et lautre³ del autre part, destre triours od les autres, saunz prendre le triement solonc ceo qe la greindre partie furent en un. Par quei les v. furent charges sur mesme le chalange, et les iij. furent dun assent, et les ij. al encountre. Et, saunz resceivre le triement de les iij. pur ceo qils furent la greindre⁴ partie, ils furent comauandez a demurer en une chaumbre saunz manger ne boire tanqils furent en un. Et a lendemeyn ils furent en un, et trierent celuy qe fut⁵ chalange hors, et auxi touz les autres qe furent en le panel. Par quei, pur le chalange qe fut done vers les triours par les parties qils ne serront en lenqueste, ces chalanges vers ij. furent triez par les iij. et oustes; et par les ij. de les iij. fust le terce trie qil fust bon destre en lenqueste. Et par celi qe fust issi trie et lautre de les ij. triours fut un deux trie pur bon. Et par eux deux qe furent triez pur bons fut lautre trie⁶ pur ceo qil avoit pris solonc ceo qil fut chalange. Par quei les ij. qe furent triez pur bons furent sermentez⁷ sur le principal. Et le plaintif pria un *Nisi prius*; et ne pout aver, pur ceo qe partie del enqueste est jure

¹ H., son.² The words saver lun are omitted from I.³ lautre is omitted from I.⁴ I., greignure.⁵ H., ceo fut.⁶ H., trete.⁷ H., surmountes.

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A.D. 1346. therefore the case must be determined in this Court.

—And, moreover, SHARSHULLE, before whom the *Nisi prius* would have had to be granted, said that he would not grant it by reason of the great dispute which might arise on the great maintenance which there had been on both sides.—Therefore the party had a writ to the Sheriff to cause to come, in addition to the two who had been sworn, *duodecim tales*, &c.

Quare impedit. § A man brought a *Quare impedit*¹ against John Seneloun, in which they were at issue, and, on the day on which the jury came to give its verdict between the parties, *R. Thorpe* produced a letter under the Privy Seal, reciting that a writ was pending between John de Seneloun and another person, and that the King had a writ pending, in respect of the same church, against J. de Seneloun and another person, and another writ against that other person, and commanding the Justices not to take the inquest until these writs had been determined.—*Huse.* The Statute² purports that you shall not omit to act in accordance with the law by reason of any command from the King which comes under the Great Seal or the Little Seal, and you see plainly how this command is, in its proper acceptation, contrary to the law, and therefore it is not right that by his command we should be delayed of our action, and, if the King has any right in the matter, nothing will be lost to him.—*R. Thorpe.* We have seen a case in which there was a plea of land between parties, and in which the King sent his writ to the effect that the land was in

¹ Though in this report the action both seems to show that they are described as a *Quare impedit*, and independent reports of the same in the report next preceding as an *case*.

Assise of Darrein Presentment, the 2 Edw. III., c. 8; 14 Edw. III., matter relating to the jurors in St. 1, c. 14.

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ceins, par quei ceins covient qil¹ soit² termine.³—Et A.D. 1346. auxi Schs., devant qil duist aver graunte⁴ ne le voleit graunter pur graunde⁵ debat qe poait avenir sur le graunde⁵ meyntaunce qil y ad dune part et d'autre.—Par quei il avoit brief al Vicounte de faire venir, *præter*⁶ les deux qe furent jurez, xij. *tales*, &c.

§ Un⁷ homme porta *Quare impedit* vers Johan^{Quare impedit.} Seneloun, ou ils furent a issue, et, al jour qe lenqueste vint de passer entre les parties, *R. Thorpe* mist avant une lettre de south la prive seal, reherceaunt coment un brief fuit pendant entre J. de Seneloun et un autre, et coment le Roi avoit un brief pendant, de mesme leglise, vers J. de Seneloun et un autre,⁸ et un autre brief vers lautre, et maunda a les Justices qils ne duissent mye prendre lenqueste tanqe les briefs⁹ fuissent terminetz.—*Huse*. Lestatut voet qe pur maundement du Roi qe vint south la grand¹⁰ seal ou south la petit seal qe vous ne lesserez mye de faire la lei, et vous veietz bien coment cest maundement si est proprement countre la lei, qar il nest pas resoun qe par sa maundement qe nous soioms delaye de nostre accion, et, si le Roi en ad¹¹ dreit, rien luy depert.—*R. Thorpe*. Nous avoms viewe qe plee ad este entre parties de terre, et qe le Roi ad maunde soun brief qe la terre

¹ I., qils.² I., soient.³ I., terminez.⁴ I., cest graunt.⁵ I., graunt.⁶ *præter* is omitted from I.⁷ This report of the case is from L., and C.⁸ The words et un autre are omitted from C.⁹ MSS., Eyres.¹⁰ C., grant.¹¹ L., nad, instead of en ad.

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A.D. 1346. his hand, and that the Justices were not to hold plea thereof, and in that case they would not proceed; in this way also it seems that you ought to act in this case.—HILLARY. I believe that in that case the writ was allowed contrary to law and right, and, if such a writ came to us, we ought to disallow it. (But *Quere*.) And we do not see any mischief even though the inquest be taken.—Therefore the jury was called.—And the jurors were challenged on the ground that they had taken bribes.—And four triers were elected, and were sworn, and those four, together with a fifth who was not challenged, were sworn to try whether the others had taken bribes, and said that they had all taken bribes, and they were so marked. And then the one who had not been challenged either on one side or on the other, and two of the four triers were charged as to whether the other two triers had taken bribes or not, and said that they had taken bribes, and they were withdrawn. And then those two who had been withdrawn and who had taken bribes, together with a third who had been challenged, were charged as to whether the other two triers had taken bribes (because, as they had been challenged, they could not be in the panel without being tried), and said that they had not taken bribes from the party.—And therefore three stood as jurors, and the Sheriff was commanded to cause to come *tot et tales*.—And so note that after they had been withdrawn the two triers could say whether their companions had taken bribes.—And, before this, because the triers could not agree with regard to the challenges, they were commanded to prison, and there remained all night, &c.

False Judgment. (9.) § John de Loundres, upholsterer, and E. his wife sued a writ of False Judgment against Herbert St. Quintyn, and the suitors [of the Court of Ancient

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est en sa mein, et qils ne tiendrent mye pleée de ceo, A.D. 1346.
et ils ne voleint plus avant aler; auxint semble il qe
vous devetz faire¹ en ceo cas.—HILL. Jeo crey qe
ceo fuit allowe countre ley et resoun, et si tiel brief
nous vint nous² le duissons desallowere.—*Sed Quære.*
—Et nous ne veioms mie meschief tut soit lenqueste
pris.—Par qai lenqueste fuit demande.—Et les jurours
furent challenges touz de ceo qils avoient pris forre-
prise.—Et iiiij. triours furent eslieux, et furent jures,
et les iiiij., ensemblement ove le v^o, qe ne fuit pas
challenge, furent jures de trier si les autres avoient
pris, qe disoint qils avoient touz pris, et furent
merches. Et donques celuy qe ne fuit pas challenge
de lune part ne de lautre, et les deux triours si
furent charges si les autres deux triours avoient pris
ou noun, qe disoint qils avoient pris, et furent tretes.
Et puis ceux ij. qe furent tretes et qavoint pris,
ensemblement ove le terce qe fuit par challenge,
furent charges si les autres ij. triours avoient pris,
pur ceo qils ne purroint mie estre en le panel, la
ou ils furent challenges, sanz estre trie, et disoint
qils navoient mye pris de la partie.—Et pur ceo les
iiij. esturrent, et comaunde fuit au Vicounte de faire
vener *tot et tales*.—*Et sic nota* qe apres qils furent
tretes les ij. triours qils dirrount si leur compaignouns
avoit pris.—Et avant, pur ceo qe les triours ne
purreint mye acorder des challenges, ils furent
comaundetz a la prisoun, et la demurent tut la
nuyte, &c.

(9.)³ § Johan de Loundres, tapiser, et E. sa Faux
femme suyrent un brief de faux jugement vers [Fitz.,
Herbert Seynt Quintyn, et les suters porterent Faux
Jugement, 11.]

¹ L., fere.

² nous is omitted from L.

³ From H., and I., until other-
wise stated.

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A.D. 1346. Demesne] brought the record. And because the original writ was not sent, the parties were not admitted to assign errors. Therefore a writ was awarded to cause a fuller record to come.

False Judgment. § Note that a writ of False Judgment was sued in this Court (the Common Bench) upon a judgment which was given in the Court [of Ancient Demesne] of Cookham. And the record was sent into the Bench, and the party wished to assign errors in the record. And because the original writ was not there, they would not admit him to assign error, but granted a writ to distrain the bailiffs to send the original writ.—But it is otherwise on a writ of Error on a judgment given in the Court of Common Pleas, unless variance is assigned between the original and the record, &c.

Account. (10.) § William de Midelton sued a writ of Account. The defendant denied the receipt of the moneys as alleged, and it was found that he had been the plaintiff's receiver. Therefore judgment was given that the defendant must account. Therefore he said, before the auditors, that he had paid the plaintiff in full in twenty different counties, to wit, so much in one county, and so much in another. As to this the plaintiff tendered his wager of law that the defendant did not pay the moneys. And thereupon he had a day now. And the defendant said that the plaintiff had released to him all manner of actions, personal and real, in respect of any account whatsoever. And the release purported to be dated after the wager of law. And the defendant made *proferit* of the deed of release, and prayed that it might be allowed to him.—*Thorpe.* You see plainly that you (the defendant) accepted the wager of law before the auditors, by reason whereof we are at final issue before you (the Court); therefore you

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le recorde. Et pur ceo qe loriginal ne fut maunde A.D. 1346. ils ne furent pas resceu dassigner errorur. Par quei fut ajugge brief de faire venir plus pleyn recorde.

§ Nota¹ qun brief de Faux Jugement fuit tuy Faux Jugement. ceinz dun jugement qe fuit done en la Court de Cokham. Et le recorde fuit maunde en Bank, et la partie voleit aver assigne errorur en le recorde. Et, pur ceo qe loriginal ne fuit pas la, ils ne luy voleint pas resceivre, mes granterent un brief a destreindre les baillifs de maundre le brief original.—*Sed secus est* en brief Derroure de jugement done en la comune place, si variaunce ne soit assigne entre loriginal et le recorde, *et cetera.*²

(10.)³ § William de Mideltone suist un brief Acompte. Dacompte. Le defendant dedit la resceite, et fut trove qil fut son resceivour. Par quei il fut agarde dacompter. Par quei, devant les auditours, il dit qil avoit paie al pleintif bien en xx. countees, saver, taunt en un counte et taunt en un autre. A quei le pleintif tendi sa ley qil ne les paia point. Et sur ceo avoit jour a ore. Et le defendant dit qe le pleintif avoit relesse a luy totes maneres daccions personels et reals de quecunque acompte. Et ceo purportaunt date puis la ley gage. Et mist avant le fait et pria qe ceo li fust allowe.—*Thorpe.* Vous veietz bien comment la ley fut gage par vous devant les auditours, par cause de quel nous sumes a final issue devant vous; par quei a ore de pleder

¹ This report of the case is from L., and C.

² The words *et cetera* are omitted from C.

³ From H., and I., until otherwise stated. The report may possibly

be in continuation of No. 79 in Easter Term (above, p. 448).

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A.D. 1346. (the defendant) shall not be admitted now to plead a release of all manner of actions and thereby waive the wager of law which heretofore you accepted.—
SHARSHULLE. Will you abide by the wager of law or not?—The defendant said that he would not, but that he relied upon the release.—SHARSHULLE. Then, at any rate, we discharge William of his wager of law. And it seems that this release is not of such force as to bar him: for judgment has been given that you (the defendant) must account, and that upon verdict, and where judgment has been given with regard to him the action is in that respect determined; therefore a release of all manner of actions, executed since the action was determined by judgment given for the plaintiff, does not deprive him of the right to have that judgment executed.—
STOUFFORD. If it were a case in which there was not any other judgment to be rendered but that which was rendered on the verdict, that which Sir WILLIAM SHARSHULLE has said would, perhaps, be right; but when auditors have been appointed, and the defendant remains in arrear, he will be charged by judgment with that sum which is in arrear; therefore the law gives him an answer to show that he ought not to be charged with that sum; for if he wished to make *propter* of an acquittance executed since the wager of law, he would be admitted to do so, and for the same reason a general acquittance.—
WILLOUGHBY to Thorpe. If you will abide judgment on the point we shall hold the deed to be not denied by you; and therefore consider.—Thorpe. We understand that for the very same reason for which he will now be admitted to allege a general release after we have previously come down to another issue, for that same reason, even though we do deny this deed, he will on another day produce another acquittance, and will so delay us for ever.—

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un relees de totes maneres daccions et par taunt A.D. 1346.
 weyvant la lei quel autrefoitz receustes ne serretz
 resceu. — SCHARS. Volez la lei ou nient? — *Le*
defendant dit qil ne voleit pas, mes se tint sur le
 relees. — SCHARS. A meyns dounques nous deschargeoms
 W. de sa lei. Et il semble qe cel relees nest pas
 de tiel force qe luy forclost: qar vous estes ajugge
 dacompter, et ceo par verdit, et ceo qe luy est
 ajugge laccion de cele est termine; par quei relees
 de totes maneres daccions puis qe par jugement
 taille pur luy laccion est termine ne luy toude pas
 qe cel jugement ne serra execut. — STOUR. Si en
 cas y ny¹ avereit autre jugement a rendre mes cel
 qe fut rendue sur le verdit il serreit resoun par
 aventure ceo qe MONSIRE WILLIAM SCHARS. ad parle;
 mes quant auditours sount assignez et il demoert
 en arrere il serra charge par jugement de cele
 summe; par quei a moustrer qil ne serra pas de
 cele summe charge lei luy dounie respons; qar sil
 vousist mettre avant acquittance fait puis la lei gage
 il serreit resceu, et par mesme la resoun acquittance
 generale. — WILBY. a *Thorpe*. Si vous voletz demurer
 en point de jugement nous tendroms le fait nent
 dedit de vous; et pur ceo avisetz vous. — *Thorpe*.
 Nous entendoms qe par mesme la resoun qil
 avendra a ore dallegger un reles general puis qe
 nous fumes avant descendu en autre issue, par
 mesme la resoun, mes qe nous dedioms ceo
 fait, il mettra a autre jour une autre acquittance,
 et issi nous delaiera il a touz jours. — HILL. Nanil

¹ H., ne.

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A.D. 1346. HILLARY. Certainly not; if you deny the deed now, he will never afterwards be admitted to plead another deed in bar, because both pleas are of the same kind; therefore deliver yourself; or would you rather abide judgment at the peril which attaches thereto? — Therefore *Thorpe* waived the point, because the opinion of the COURT was that the defendant might be admitted to plead the release. Therefore *Thorpe* denied the deed, and thereupon they were at issue.—And *Thorpe* prayed a *Nisi prius* because the defendant could not be essoined on the next day. And this was granted to him.—And the defendant prayed to be let out on mainprise.—And his prayer was counterpleaded, because in this same plea he appeared in virtue of a *Capias*, and denied the receipt of the moneys, and found mainprise, and made default on the next day, and therefore the inquest was taken by his default; and the finding was for the plaintiff, and therefore judgment was given that he must account, and consequently mainprise was then broken by him, and therefore he is not now capable of being held to mainprise.—And, because it is now a new issue which is to be tried, and one different from that which was then joined, it was adjudged that he was now capable of being held to mainprise, and he was let out on mainprise, &c.

Account. § The defendant in a writ of Account said that he was ready to account, and auditors were appointed for him. And he said, before the auditors, that he had paid the money to the plaintiff by tale, and made *projet* of the tallies in respect thereof. And the plaintiff said that he had not received any money, and was ready to make that statement good by his law. And he had a day in this Term to perform his law. And now the defendant came and said that the person who had brought the writ had released to him, since

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certes ; si vous dedietz le fait a ore, il navendra A.D. 1346.
jammes apres a pleder par autre fait en barre, pur
ceo qe lun plee et lautre sount de mesme condicion ;
par quei deliveretz vous ; ou voillettz demurer a
peril qe appent ?—Par quei *Thorpe* le weyva, pur
ceo qe oppinion de Court fut qil avendra. Par quei
il dedit le fait. Et sur ceo furent a issue.—Et
Thorpe pria le *Nisi prius* puisqe le defendant ne
poait al procheyn jour estre essone. Et ceo luy fut
graunte.—Et la partie luy pria destre lesse a
meinprise.—Et countreplede pur ceo qe en mesme
cel plee il vient par le *Capias*, et dedit la resceite,
et trova meinprise, et al prochein jour il fist defaute,
par quei par sa defaute lenqueste fust pris ; et trove
pur le plaintif, par quei il fuist ajugge dacompter,
et par taunt la meynprise par lui adonques debruse,
par quei a ore il nest pas meynpernable.—Et, pur
ceo qe cest a ore a trier une novele issue, et autre
qe adonques fut joint, fut agarde qil fust a ore
meynpernable, et fuist lesse a meynprise, &c.

§ Le¹ defendaunt en brief Daccompte dist qil fuist Accompte.
prest dacompter, et auditours luy furent assignes.
Et devant les auditours il dist qil luy avoit paia
les deners countes, et de ceux moustra avant tailles.
Et le plaintif dist qil ne resceut nulles deners ; prest
a faire par sa lei. Et avoit² jour tanqa cest terme
de faire sa ley. Et ore vint le defendant, et dit qe
celuy qe porta soun brief si avoit relesse a luy, puis

¹ This report of the case is from L., and C.

² C., avoient.

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A.D. 1846. that time, all manner of actions personal and real. And, said the defendant, we demand judgment whether he can have an action.—And the plaintiff tendered his law.—*Skipwith*. You ought not to be admitted to perform your law, because you have released at a later time, and since the law was waged.—*R. Thorpe*. You see plainly that judgment was given that he must account, and so a judgment was given against him, so that, if in accounting he could not discharge himself by showing that we had received the money, or made an acquittance to him, he would be charged with the sum, and so at that time he was by law ousted from any counterplea to our action, and his only course was to discharge himself of the sum in accounting, and therefore we do not understand that he ought to be admitted to use this deed.—*WILLOUGHBY*. He will not be admitted to allege any deed of an earlier time, but he alleges that this deed was executed afterwards, and so, since you have released your right to him who is a party to you by the original writ, it is right that he should be able to use the deed; for, still further, if you had not appeared on the day which you had to perform your law, you must have been non-suited, so that, although judgment has been given for him to account, he is all the time a party to you in Court, and therefore answer as to your deed.—*R. Thorpe*. We tell you that this is not our deed, and we pray a *Nisi prius*, because the person who makes *profert* of the deed cannot be esoined.—And the *Nisi prius* was granted to him on the first day.

Trespass. (11.) § A writ of Trespass was brought, in respect of a trespass committed in London, against certain

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cel temps, totes manere¹ daccions² personels et reals. A.D. 1346.
 Et demandoms jugement sil pout accion aver.—Et le pleintif tendi sa lei.—*Skip.* Vous ne devetz estre resceu a vostre ley, qar vous avietz relesse de puisne temps, puis la ley gage.—*R. Thorpe.* Vous veietz bien coment il fuit ajugge dacompter, issint un jugement done contre luy, issint qe, si sur lacompter il ne se poet mie descharger qe nous avons resceu les deners, ou a luy fait acquaunce, qil serreit charge de la summe, issint qe a cel temps par ley il fut ouste de countrepleder nostre accion, mes soulement a soy descharger sur lacompter de la summe, par qai nous nentendoms mie qil deit estre resceu de user ceo fait.—*Wilby.* Il ne serra pas resceu dallegger nulle fait de temps devant, mes il allegge ceo fait fet puis, issint, quant vous avietz relesse vostre dreit a luy qest partie a vous par loriginal, il est resoun qil puisse³ user⁴ le fait; qar unqore si vous ne venissetz mie al jour qe vous avietz de faire vostre ley, vous duissetz aver este nounsuy, issint qe tut soit il ajugge dacompter, il est, tut temps partie en Court a vous, par qai responez a vostre fait.—*R. Thorpe.* Nous vous dioms qe ceo nest pas nostre fait, et prioms *Nisi prius*, qar celuy qe mette avant le fait ne poet mie estre essone.—Et ceo luy fut grante al primer jour.

(11.)⁵ § Brief de Trespas porte, de trespass fait Trespas.
 en Loundres, vers certeyns Lumbards,⁶ de baterie⁷

¹ sic in both MSS.

² C., daccion.

³ L., poet.

⁴ C., useer.

⁵ From H., and I., but corrected by the record, *Placita de Banco*, Trin., 20 Edw. III., R^o 78. It

there appears that the action was

brought by Roger Caunville against

Henry Parsout' Lumbarde, and

John Parsout' Lumbarde.

⁶ I., Lounbards.

⁷ The words de baterie are

omitted from I.

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A.D. 1346. Lombards, with an allegation of battery and goods carried off.—*Birton*. As to the goods carried off, Not Guilty. And as to the battery we tell you that the plaintiff came into the shop of the defendants' master, whose apprentices they were, and committed an assault upon them, and injured them, and the harm which he received was by reason of his own assault, and in order to save their lives; and we do not understand that by reason of that battery he can assign tort in their persons.—*Skipwith*. You came with force and arms, making your own assault, and you beat us, *absque hoc* that it was by reason of our assault; ready, &c.—And the other side said the contrary.

Elegit. (12.) § One recovered damages on a writ of Waste against Richard de Radcliffe in the county of York, and the plaintiff said that Richard had nothing in that county whereof he could have execution, and he prayed an *Elegit*, to be directed to the Sheriff of Lancaster, in which county

No. 12.

et des biens emportez.¹—*Birtone.* Quant as biens A.D. 1346. emportez, de riens coupable. Et quant al baterie nous vous dioms qe le pleintif vient en la shope lour mestre qi apprentiz ils furent, et fist assaut a les defendantz, et les naufra, et le mal qil resceut ceo fust de son assaut demene en sauvaunce de lour vies; et nentendoms pas qe de cele baterie il poait tort en lour personnes assigner.²—*Skip.* Vous venistes a force et armes, et de vostre assaut demene, et nous batistez, saunz ceo qe fut de nostre assaut³; prest, &c.—*Et alii e contra.*⁴

(12.)⁵ § Un recoveri damages en un brief de *Elegit.* Wast vers Richard de Radecliffe en le counte ^{[Fitz., Proses,} Deverwyke, et le pleintif dit qe Richard navoit ^{43.]} rienz en cel counte dount il poait execucion aver, et pria le *Elegit* al Vicounte de Lancastre, en quel

¹ The declaration was, according to the record, "quod prædicti Henricus et alii . . . in ipsum Rogerum, apud Londonias, in Warda de Cordewanerestrete, in parochia Sancti Benedicti Sherhog, vi et armis . . . insultum fecerunt, et ipsum verberaverunt, vulneraverunt, et male tractaverunt, et bona et catalla sua ad valentiam, &c. [quadraginta solidorum] ceperunt et asportaverunt."

² The plea of the defendants was, according to the record, "quod prædictus Rogerus. una cum aliis incognitis, . . . venit ad shopam cuiusdam Johannis Adam, magistri sui, et ipsi cum gladiis et cultellis in ipsis ibidem insultum fecerunt, et ipsis verberaverunt, et vulneraverunt, per quod ipsi pro morte sua evitanda se versus ipsis defendebant, eo quod mortem alio modo evadere non potuerunt, et si aliquod

"malum prædicto Rogero ad tunc evenit, hoc fuit in defensione corporum suorum pro morte evitanda, &c., et ad insulationem ipsius Rogeri, unde petunt judicium si prædictus Rogerus actionem de transgres sione versus eos ratione prædicta, habere debeat, &c."

³ The words de nostre assaut are omitted from I.

⁴ Roger's replication, upon which issue was joined, was, according to the record, "quod prædicti Henricus et Johannis fecerunt ei prædictam transgressionem contra pacem, &c., et ex injuria sua propria, et non causa prædicta."

The *Venire* was awarded, and mainprise was accepted for the defendants, but nothing further appears on the roll.

A like action against the same defendants, with like pleadings, was brought by John Fox.

⁵ From H., and I.

No. 18.

A.D. 1346. Richard had assets.—HILLARY. Have you sued any writ to the Sheriff of York?—*The Plaintiff.* No, Sir; for Richard has nothing in that county.—HILLARY. Until we are apprised by a Sheriff's return that he has nething there, we shall not grant you an *Elegit* in the other county. Therefore sue a writ to the Sheriff of York, if you will.—And he did so, &c.

Quare impedit. (13.) § The King brought his *Quare impedit* against one Laurence de St. Martin, and counted that he hindered the King from presenting to the church of Newton, and tortiously for that one A.¹ was seised of the advowson as of fee and of right, and presented. And he made the descent of the advowson from A. to B.¹ and C.¹ as to two daughters and one heir, and alleged that a composition was made between them to the effect that B. should present on the first voidance, and C. on the second, and so on alternately for ever. And he said that on the first voidance B. presented, and that the church afterwards became void, and that thereupon B. again presented, and that this was in C.'s turn, and that on another voidance next after that B. presented as in her own turn, on the death of whose presentee the church is now void. And he made the descent of B.'s purparty of the advowson to present in turn from B. to the defendant by successive stages.¹ And from C.¹ he made the descent of her purparty to Oliver de Ingham, and from him to two daughters, and from one of those daughters to one Mary, who is under age and in the King's wardship. And after the death of Oliver all his lands were seized into the King's hand, and so it belongs to him to present, &c.—*Dericorthy.* Sir,

¹ For the names and for the facts alleged in the declaration, see p. 505, note 6.

No. 13.

counte il ad assetz.—HILL. Avetz rien suy al A.D. 1346.
 Vicounte de Everwyk ?—*Le Pleintif.* Sire, nanil ;
 qar il nad rienz en cel counte.—HILL.¹ Tanqe nous
 soioms apris par retourn de Vicounte qil nad rienz,
 ne vous grauntroms pas *Elegit* en la autre counte.
 Par quei suetz al Vicounte Deverwyke, si vous
 voletz.—*Et sic fecit, &c.*

(13.)² § Le Roi porta son *Quare impedit* vers un *Quare impedit*,
 Laurence Seint Martyn, et counta qil luy destourba [Fitz.,
 a presenter al eglise de Newetone, et pur ceo atort *Quare impedit*,
 qun A. fust seisi del avoweson come de fee et de 65.]
 dreit, et presenta. Et fist la descente del avoweson
 de A.³ a B. et a C. come as deux filles et un heir,
 et coment composition se prist entre eux qe B.
 presenfera al primere voidance, et C. a la secunde,
 et issi entrechaungeablement a touz jours. Et dit
 qa la procheine voidance B. presenta, et apres⁴
 leglise se voida, par quei B. presenta, et ceo en le
 tourn⁵ C., et al autre voidance procheine apres cele
 B. presenta come en son tourn demene, par qd mort
 la eglise est ore voide. Et fist la descente de B.
 de sa purpartie del avoweson a presenter par tourn
 al defendant par degrees. Et de C. il fist la descente
 de sa purpartie a Oliver de Ingham, et de luy a
 deux filles, et de lune fille a une Marie, qest deinz
 age et en la garde le Roi. Et apres la mort Oliver
 touz ces terres furent seisiz en la meyn le Roi, et
 issi appent a luy a presenter, &c.⁶—Ier. Sire, vous

¹ HILL. is omitted from I.

² From H., and I., but corrected by the record, *Placita de Banco*, Trin., 20 Edw. III., R^o 238, d. It there appears that the action was brought by the King against Laurence de St. Martin in respect of a presentation to the church of Nywetone (Newton, Dorset).

³ The words de A. are omitted from H.

⁴ The words et apres are omitted from I.

⁵ I., temps.

⁶ The declaration was, according to the record, “ quod quidam Walterus Walerand fuit seisitus de manorio de Niwetone, cum pertinentiis, ad quod adlocatio ecclesiae predictae pertinuit, . . . tempore Regis Johannis pro genitoris domini Regis nunc, qui

No. 13.

A.D. 1346. you see plainly how he has spoken of a composition made between B. and C., and has supposed that this turn would belong to the heirs of C., and therefore it belongs to the daughter of Oliver who is living as much as to Mary; and by your writ it is supposed that by reason of Mary's non-age it belongs to the King to present, and your declaration proves that it belongs to the daughter of Oliver who is living to present as much as to Mary, and therefore

" ad eandem præsentavit quendam
 " Nicholaum de Suttone, clericum
 " suum, qui ad ejus præsentationem
 " fuit admissus et institutus, . . .
 " qui quidem Walterus postea,
 " tempore ejusdem Regis Johannis,
 " dedit medietatem manerii præ-
 " dicti, cum pertinentiis, cuidam
 " Bartholomeo de Insula, et aliam
 " medietatem cuidam Alexandro
 " Cheverel separatim tenendas sibi
 " et heredibus suis de eodem
 " Waltero et heredibus suis in
 " perpetuum, reservando sibi et
 " heredibus suis advocationem
 " prædictam. Et de ipso Waltero
 " descendit advocatione prædicta
 " quibusdam Cæciliæ, Albrede, et
 " Johannæ, ut filiabus et heredibus,
 " &c. Et de ipsa Cæcilia descendit
 " propars sua advocationis præ-
 " dictæ cuidam Johanni ut filio et
 " heredi, &c. Et de ipso Johanne,
 " quia obiit sine herede de se,
 " resortiebatur jus propartis sue
 " prædictis Albrede et Johannæ, ut
 " amitis et heredibus ejusdem
 " Johannæ, sororibus et heredibus
 " prædictæ Cæciliæ matris prædicti
 " Johannæ, inter quas Albredam
 " et Johannam postmodum con-
 " venit quod in proxima vacatione
 " dictæ ecclesiæ tunc accidenti præ-
 " fata Albreda et heredes sui præ-
 " sentarent ad eandem clericum
 " suum, et in secunda vacatione
 " ejusdem ecclesiæ extunc accidenti
 " præfata Johanna et heredes sui
 " præsentarent clericum suum ad
 " eandem, et sic præfata Albreda
 " et heredes sui, et præfata Johanna
 " et heredes sui alternatim et
 " successive præsentarent ad
 " eandem in perpetuum, quæ
 " quidem Albreda nupsit se cuidam
 " Johanni de Ingham. Et postea,
 " vacante ecclesia prædicta per
 " mortem prædicti Nicholai per
 " prædictum Walterum Walerand
 " præsentati, præfati Johannes et
 " Albreda præsentarunt ad eandem
 " ecclesiam quendam Walterum de
 " Rudmerlegh, clericum suum, in-
 " cipiendo turnum, &c., qui ad pre-
 " sentationem suam fuit admissus et
 " institutus, &c., tempore dom-
 " ini Regis Henrici proavi domini
 " Regis nunc, &c. Et postea præ-
 " dicta Johanna nupsit se cuidam
 " Willelmo de Sancto Martino, quo
 " tempore prædicta ecclesia vacavit
 " per mortem prædicti Walteri de
 " Rudmerlegh, &c., per quod præ-
 " dicti Willelmus et Johanna, con-
 " tinuando turnum suum, &c., præ-
 " sentarunt ad eandem quendam
 " Galfridum de Melbourne, clericum
 " suum, qui ad præsentationem suam
 " fuit admissus et institutus. . . .
 " Et in tertia vacatione ecclesiæ
 " iidem Willelmus et Johanna,
 " usurpando super turno dictæ

No. 13.

veietz bien coment il ad parle dune composition fait A.D. 1346.
entre B. et C., et ad suppose qe cel tourne appendreit
a les heirs C., et par taunt appent il a la fille
Oliver qest en vie auxi avant come a Marie; et
par vostre brief est suppose qe par resoun del noun
age Marie [il appent al Roi a presenter, et vostre
demoustraunce prove qil attient a la fille Oliver qest
en vie a presenter auxi avant come a Marie],¹ par

" Albrede post mortem prædicti
" Galfridi præsentarunt ad eandem
" quendam Thomam de Staunton,
" clericum suum, qui ad præsenta-
" tionem suam fuit admissus et
" institutus, tempore
" ejusdem Regis Henrici, &c. Et
" de ipsa Johanna descendit jus
" propartis sue præsentandi per
" turnum, &c., cuidam Willelmo ut
" filio et heredi, &c. Et de ipso
" Willelmo descendit jus propartis
" illius præsentandi per turnum,
" &c., cuidam Reginaldo ut filio et
" heredi, &c. Et postea ecclesia
" prædicta vacavit per mortem
" predicti Thoma de Staunton
" per prædictos Willelmum de
" Sancto Martino et Johannam
" præsentati, prædictus Reginaldus
" ut in turno suo, &c., præsentavit
" quendam Thomam de Forde,
" clericum suum, qui ad præsenta-
" tionem suam fuit admissus et
" institutus, tempore
" Edwardi Regis avi domini Regis
" nunc, post eujus mortem prædicta
" ecclesia modo vacat. Et de præ-
" dicto Reginaldo descendit jus,
" &c. præsentandi per turnum, &c.,
" cuidam Laurencio ut filio et
" heredi, &c. Et de ipso Laurencio
" descendit jus, &c., præsentandi
" per turnum, &c., isti Laurencio
" ut filio et heredi, &c. Et de præ-
" dicta Albreda descendit jus, &c.,
" præsentandi per turnum, &c.,

" cuidam Waltero ut filio et heredi,
" &c. Et de ipso Waltero descendit
" jus præsentandi per turnum, &c.,
" cuidam Olivero ut filio et heredi,
" &c. Et de ipso Olivero descendit
" jus, &c., præsentandi per turnum
" &c., cuidam Johanni ut filio et
" heredi, &c. Et de ipso Johanne
" descendit jus, &c., præsentandi
" per turnum, &c., cuidam Olivero
" ut filio et heredi, &c. Et de ipso
" Olivero descendit quibusdam
" Elizabeth et Johannæ ut filiabus
" et heredibus, &c. Et de ipsa
" Elizabeth descendit jus propartis
" sue præsentandi per turnum, &c.,
" cuidam Mariæ ut filia et heredi,
" infra statem et in custodia
" domini Regis existenti. Et post
" mortem dicti Oliveri ultimi
" dominus Rex seivit in manum
" suam omnia terras et tenementa,
" feoda et advocationes quæ
" fuerunt prædicti Oliveri tempore
" mortis sue, eo quod tenuit de
" domino Rege per servitium
" militare. Et sic dicta propars
" præsentandi per turnum, &c., est
" in manu domini Regis nunc, et
" est quintus turnus post compo-
" sitionem prædictam, per quod ad
" dominum Regem ad prædictam
" ecclesiam ad præsens pertinet
" præsentare, et prædictus Lauren-
" cius-ipsum injuste impedit."

¹ The words between brackets are omitted from I.

No. 18.

A.D. 1346. the declaration is not warranted by the writ; judgment of the declaration.—*Thorpe*. We have counted that all Oliver's lands are in the King's hand, so that the seisin gives title to the King to present even though Mary were of full age.—*Derworthy*. Then we pray to be discharged with regard to Mary's non-age, and that we be not charged with anything but the simple seisin [of the King] after Oliver's death, of which he has spoken.—*Thorpe*. No, you will be charged with regard to both, for we understand that, after composition made between parceners to present by turn, if one parcener has two daughters and dies, and one of the daughters is under age, and the other of full age, and the King seizes the land by reason of the non-age of the one, that presentation which would be given to the two sisters, if they were both of full age, will be given to the King alone by his prerogative, because he will not present in common with the other. Therefore, even if you could show that you had sued the other's purparty out of the King's hand, yet, because the King will never present in common with that other, the suit can be maintained for him alone.—*Derworthy*. We say that, whereas he makes the descent from A. to B. and C., as to two daughters, A. had no daughter B., but we tell you that B. was the daughter of one D., which D. was the daughter of one A.; judgment of the declaration; and in case the King may be pleased to amend, we are ready to answer.—*Thorpe*. And inasmuch as the King has claimed in respect of C.'s purparty, and you have not assigned any defect in the descent from her, and therefore no answer has been made to the title which gives the presentation to the King, and you do not show that it belongs to you to present, therefore, &c.—*Birton*. If one parcener had brought a *Quare impedit* against

No. 13.

quei la demoustraunce nest pas garrantie del brief; A.D. 1346.
 jugement de la demoustraunce.—*Thorpe.* Nous avoms
 counte qe touz les terres Oliver sont en la meyn le
 Roi, issi qe la seisin doun title al Roi a presenter
 mesqe Marie fust de pleyne age.—*Der.* Donques
 prioms destre descharge del noun age Marie, et qe
 nous ne soioms charge de nul autre rienz mes de
 la simple seisin qil ad parle apres la mort Oliver.
 —*Thorpe.* Nanil, vous serrez charge del un et del
 autre, qar nous entendoms qe apres la composition
 faite entre parceners de presenter par tourn qe si
 lun parcener eit deux filles et devie, et lune soit
 deinz age, et lautre de plein age, et le Roi seise la
 terre par reson del noun age lune, qe cel presentement
 quele serra done¹ a les deux seors, si les deux
 furent de pleine age; serra done tut-soul al Roi par
 sa prerogative, qar il ne presentera pas od autre en
 comune. Par quei, mesqe vous purrietz moustrer qe
 vous ussetz suy la purpartie lautre² hors de la meyn
 le Roi, pur ceo qe le Roi ne presentera jammes en
 comune ove lautre,³ la sute est meyntenable pur lui
 soul.—*Der.* Nous dioms qe, la ou il fait la descente
 de A. a B. et C. come a deux filles, nous dioms qe
 A. navoit nulle fille B., mes vous dioms qe B. fust
 la fille un D., quele D. fust la fille un A.; jugement
 de la moustraunce; et en cas qil plest au Roi del
 amender, prest, &c., a respondre.—*Thorpe.* Et
 desicome le Roi ad clame de la purpartie C., et en
 cele descente navetz nul defaut assigne, et par taunt
 le title qe done al Roi le presentement nest rienz
 respondu, ne vous ne moustrez pas qe il appent a
 vous a presenter, par quei, &c.—*Birtone.* Si lune
 parcenere ust porte le *Quare impedit* vers lautre,

¹ done is omitted from I. | ² MSS. of Y.B., la aunte.

No. 18.

A.D. 1346. the other, she would have abated the count by a mistake in the descent as much on the side of the defendant as on the side of the plaintiff, and for the same reason with regard to the King, since he claims through the estate of the parcener.—WILLOUGHBY. You will not abate the King's declaration by such an exception without answering to his title.—*Skipwith*. Then we pray that the King do amend his count in accordance with our allegation, and we shall then be ready to answer.—And, without any amendment of the count, the defendant was put to answer over.—*Derworthy*. Then we say that there are two Newtons in the county, without addition, to wit, such an one and such an one, and there is a church in each, and it is not specified which is the church in particular; judgment of the writ.—*Thorpe*. You shall not be admitted to plead that, because you have alleged matter of fact against our declaration, on which we could have taken issue, and by that plea in fact you have affirmed that the vill is rightly named, and therefore you shall not be admitted to say that there are two vills.—*Skipwith*. If we had commenced with that, we should not afterwards have been admitted to plead to your descent, and therefore it is necessary that we should have the plea now.—SHARSHULLE to *Thorpe*. He could not be admitted to allege both exceptions at one time; and therefore it is necessary that, if he is to begin correctly, he must begin with the matter of the count, and go on afterwards to the matter of the writ; therefore answer over.—*Thorpe*. This is no plea, for in the fourth year of the reign we saw a *Quare impedit* brought in one county maintained in this Court, when the church was in another county¹; and, moreover, this is in its nature a writ of Trespass, on which writ such an exception

¹ The case appears in Y.B., Hil., 4 Edw. III., fo. 9, No. 20. The King was plaintiff. The writ was directed to the Sheriff of Shropshire, and the church was in the

county of Dorset. The writ was held good on the ground that the King can send his writ to the person who can most quickly bring the party to answer.

No. 13.

ele ust abatu le counte par mesprision de la descente A.D. 1346.
 de la part le defendant auxi bien come de la part
 le pleintif, et par mesme la resoun vers le Roi, puis
 qil cleyme del estat la parcenere.—WILBY. Vous
 nabaterez pas la demoustraunce le Roi par tiele
 chalaunge sauns respondre a soun title. — Skip.
 Donques nous prioms qe le Roi amende soin counte
 come nous lavoms allegge, et prest serroms a
 respoundre. — Et saunz amendre le defendant fust
 mys outre.—Der. Dounques dioms nous qe en le [Fitz.,
 counte ils y ount deux Neweton, saver tiel et tiel, Briefe,
 684.]
 saunz adiection, et en chescun il y avoit eglise, nent
 determine en certeyn quel ceo fust; jugement du
 brief.—Thorpe. A ceo navendrez pas, qar vous avez
 allegge matere en fait a nostre demoustraunce, sur
 quel nous purrioms aver pris issue, par quel plee en
 fait vous avez afferme qe la ville est bien nome,
 par quei a dire qils y ount deux navendretz pas.—
 Skip. Si nous ussoms comence [a cel, nous nussoms
 pas apres avenu daver plede a vostre descente, par
 quei il covent]¹ qe nous leioms a ore.—SCHARS. a
 Thorpe. Il ne poait estre resceu a allegger lun
 chalaunge et l'autre a un temps; donques covent il
 qe sil deyve resonablement comencer² qil comence a
 la matere de counte, et puis a la matere de brief;
 par quei dites outre.—Thorpe. Ceo nest pas plee,
 qar anno quarto nous veymes un Quare impedit
 meyntenu ceins en une counte la³ ou leglise fust
 en autre counte; et auxi cest un brief de Trespas
 en sa nature, en quel brief tiele excepcion

¹ The words between brackets are omitted from I.

² comencer is omitted from I.

³ la is omitted from I.

No. 18.

A.D. 1346. does not lie; and, besides, we will aver that the church is known by the name of the church of Newton without addition, and we demand judgment whether our writ is not sufficiently good.—*Derworthy*. Then it is the fact that there are two vills [called Newton] without addition, and we demand judgment since every church takes its name from the vill in which it is, and you have not tendered an averment that the vill is known by such a name; judgment whether, &c.—*HILLARY* said to *Thorpe* that it is not law that a *Quare impedite* can be maintained in one county in respect of a church which is in another county, and he said that no resemblance can be drawn between a writ of Trespass and a writ of *Quare impedite* which always trenches upon realty. Therefore (said *HILLARY*), if you have not any other matter by which to maintain your writ, it cannot be maintained; and therefore consider.—*Thorpe*. There is no Newton in which there is a parochial church except this one; ready, &c.—*Derworthy*. Then you do not deny that there are two such vills, and without addition; judgment.—*HILLARY*. Even if there are two such vills, unless you can maintain that there is a parochial church in each of them, the writ is good enough.—*Derworthy*. We will imparl. And he came back and said that A.¹ had issue C.¹ and D.,¹ and D. had issue B.,¹ of whom he has spoken, *absque hoc* that B. was the daughter of A.¹ And we tell you that in A.'s time there were three parsons of the same church, of three patronages, that is to say of A.'s patronages, and there was a definite allowance for each parson's portion, and therefore afterwards one O.,¹ Cardinal and Legate of the Court of Rome, came into England and made consolidation of the three parsons, so that after their death there should be only one parson of the whole church. And whereas you have

¹ For the names and alleged facts, see p. 515, note 1.

No. 13.

ne lie pas ; et, ovesqe ceo, nous voloms averer qil A.D. 1346.
 est conu par noun deglise de Newetone sanz
 adjeccion, et nous demandoms jugement si nostre
 brief ne soit assetz bon.—*Der.* Donques est il issi qe
 il y ad deux¹ villes saunz adjeccion, et demandoms
 jugement puis qe chescun eglise prent soun noun de
 la ville ou il est, et vous navetz tendu daverer qe
 la ville est conu par tiel noun ; jugement si, &c.—
HILL. dit a *Thorpe* qe ceo nest pas lei qe *Quare impedit* est meyntenable en un counte dune eglise
 qest en autre counte, et dit qe homme ne put attrere
 semblance entre un brief de Trespas et cest brief
 trenche tut en la realte. Par quei si vous neietz
 autre matere de meyntenir vostre brief il nest pas
 meyntenable ; et pur ceo avisez vous.—*Thorpe.* Il ny
 ad nulle Newetone en quele eglise parochiale est
 sauve cele une ; prest, &c.—*Der.* Donques vous ne
 dedites pas qil ny ad tielx deux villes [et saunz²
 adjeccion ; jugement].³—*HILL.* [Mesqil y eit tielx ij.
 villes],³ si vous ne poetz meytenir qe il y ad eglise
 parochiale en chesquen deux, le brief est assetz bon.
 —*Der.* Nous enparleroms. Et revynt, et dit qe A.
 avoit issue C. et D., et de D. issit B., de qil ad
 parle, saunz ceo qe B. fust la fille A. Et vous dioms
 qen le temps A. de mesme leglise ils y avoient iij.
 personnes, de iij. avoweres, [saver de les avoweres
 A.],³ et a la porcion chesquene personne un certain, par
 quei apres un O., Cardinal et Legat de la Court de
 Rome, vint en Engletere et fist consolidacion de les
 iij. personnes, qil ny avereit apres lour desces qune
 personne de tote leglise. Et la ou vous avetz

¹ H., nulle.² H., nulle saunz.³ The words between brackets

are omitted from I.

No. 13.

A.D. 1346 said that a composition was made as above, to that we say that no composition was ever made between the parceners, but we tell you that, after the death of A., C. granted all her estate in the patronage to B., our ancestor, to hold to her and her heirs. And he said that his ancestors had subsequently presented twice, as they had counted for the King, and so he is seised, and it belongs to him to present, and we do not understand that our Lord the King can assign any tortious disturbance in his person.—

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dit qe composition se prist *ut supra*, a ceo dioms A.D. 1346.
 nous qe nulle composition unques prist entre eux, mes
 vous dioms qe, apres la mort A., C. graunta tut son
 estat del avowere a B., nostre auncestre, a luy et a
 ses heirs. Et dit qe ses auncestres avoient presente
 puis come ils ount counte pur le Roi deux foith, et
 issi est il seisi del avowesoun, et a luy appent a
 presenter, et nentendoms pas qe nostre seignur le
 Roi en luy puisse torcenouse destourbaunce assigner.¹

¹ The plea was, according to the record, "quod quidam Walterus Walrand fuit seisisitus de praedicto manerio de Niwetone, et de advocatione ecclesie ejusdem manerii, . . . tempore Regis Johannis progenitoris domini Regis nunc, et praedicta manerium et advocationem tenuit de honore de Chaworth, qui nunc est in manus [sic] Comitis Lancastriæ, et eodem tempore fuerunt tres personæ impersonatae in eadem ecclesia presentatae per praedictum Walterum, videlicet, Willemus Beneyt, Nicholaus de Suttone, et Stephanus de Clive, qui admissi fuerunt et instituti in eadem tempore ejusdem Regis Johannis, &c., et qui portiones suas ipsos separatis contingentes in eadem ecclesia perceperunt. Et de ipso Waltero descendit jus presentandi, &c., quibusdam Cæciliæ, Albrede, et Isabellæ ut filiabus et heredibus, &c. Et de ipsa Isabella exivit quedam Johanna, &c., quæ quidem Cæcilia obiit sine herede de se, per quod jus presentandi, &c., ipsam Cæciliam contingens, &c., descendit præfatis Albrede et Isabellæ ut sororibus et heredibus, &c. Et postea præfata Albrede dedit et concessit advocationem "prædictam cuidam Johannæ filiæ prædictæ Isabellæ tenendam sibi et heredibus suis in perpetuum. Et postea, tempore Regis Henrici, &c., quidam Cardinalis Ottobonus, sedis Apostolicæ legatus, fecit consolidationem dictæ ecclesiæ ita quod unus esset persona dictæ ecclesiæ post mortem prædictorum Wilhelmi Beneyt, Nicholai, et Stephani. Et dicit quod, ubi dominus Rex supponit in narratione sua quod prædicta Johanna despontata fuit cuidam Wilhelmo de Sancto Martino, eadem Johanna despontata fuit Jordano de Sancto Martino, &c. Et dicit quod nulla compositio facta fuit inter prædictas Albrede et Johannam de advocatione prædicta ad præsentandum per turnum, prout dominus Rex supponit, &c., nec prædictus Walterus de Rudmerlegh unquam fuit admissus et institutus in prædicta ecclesia ad præsentationem prædictorum Johannis de Ingham et Albrede, sed dicit quod post consolidationem factam de ecclesia prædicta prædicti Jordanus de Sancto Martino et Johanna uxor ejus, ut in jure ipsius Johannæ, præsentarunt ad eandem quendam Galfridum de Mulebdurne, clericum suum, qui

No. 13.

A.D. 1846. *Grene.* You see plainly that they have not denied that this daughter who is under age and in the King's wardship is issue of the younger sister, in which case, without any composition, the turn which has now occurred would belong to him, unless the grant of the advowson by C. were admitted, and that grant falls under the head of specialty, and could not pass without specialty; therefore, since he does not produce any specialty in relation to that grant, we demand judgment for the King, and pray a writ to the Bishop.—

No. 18.

—*Grene.* Vous veietz bien coment ils nouint pas A.D. 1346.
 dedit qe celi uest deinz age et en la garde le Roi
 nest issue de la puisnesse seor, en quel cas, saunz
 composition, le tourn uest a ore avenu serra a luy,
 si le grant del avoweson ne fut pas resceu par C.,
 quel graunt chiet en especialte, et saunz especialte¹
 ne poait passer; par quei, puis qil ne moustre
 nulle especialte de cel grant, nous demandoms
 jugement par le Roi, et prioms brief al Evesqe.²—

“ad præsentationem suam fuit
 “admissus et institutus,
 “tempore Henrici Regis proavi,
 “&c. Et de ipso Johanna de-
 “scendit jus præsentandi, &c.,
 “cuidam Willelmo ut filio et
 “heredi, quo tempore ecclesia illa
 “vacavit per mortem prædicti
 “Galfridi, per quod idem Willel-
 “mus præsentavit quandam
 “Walterum de Rudmarle, clericum
 “suum, qui ad præsentationem
 “suam fuit admissus et institutus,
 “. qui quidem
 “Walterus est eadem persona
 “quem dominus Rex supponit
 “præsentatum fuisse per predictos
 “Johannem de Ingham et Albre-
 “dam. Et postea, vacante ecclesia
 “illa per mortem prædicti Walteri,
 “&c., prædictus Willelmus præ-
 “sentavit ad eandem ecclesiam
 “quendam Thomam de Staunton,
 “clericum suum, qui ad præsen-
 “tionem suam fuit admissus et
 “institutus, tempore
 “Edwardi Regis avi domini Regis
 “nunc. Et de ipso Willelmo
 “descendit jus præsentandi, &c.,
 “cuidam Reginaldo ut filio et
 “heredi, &c., qui præsentavit ad
 “eandem præfatum Thomam de
 “Forde, post cujus mortem, &c.
 “Et de ipso Reginaldo descendit
 “jus, &c., cuidam Laurencio ut

“filio et heredi, &c. Et de ipso
 “Laurencio descendit jus, &c., isti
 “Laurencio de Sancto Martino, &c.,
 “ut filio et heredi, &c. Et sic
 “dicit quod ipse seistus est de
 “advocatione prædicta, &c., et
 “petit breve Episcopo, &c.”

¹ The words et saunz especialte are omitted from I.

² The replication was, according to the record, “quod prædictus Laurencius expresse cognovit quod prædictus Walterus Wale- rand, communis antecessor, &c., fuit seistus de advocatione prædicta, et ad eandem ecclesiam præsentavit prædictum Nicholaum de Suttone, qui ad præsentationem suam fuit admissus, &c., nec dedicit descensum quem dominus Rex in demonstratione sua fecit de præfato Waltero usque ad præfatam Mariam, quæ est infra statum et in custodia domini Regis, &c., nec etiam quin vacatio ista sit quintus turmus post compositionem prædic tam, et sic pertinet ad heredem prædictæ Albreðæ ad præsens præsentare. Et prædictus Laurencius, superius peremptorie placitando ad excludendum dominum Regem de præsentatione sua prædicta, pro responsione cepit quod prædictus Walterus de

No. 13.

A.D. 1346. *Dervorthys.* And we demand judgment since we have surmised that she gave and granted the advowson to D., which matter can fall under the cognisance of a jury, and that without specialty, and therefore we demand judgment.—*Grene.* There is no question but that, if the grant of the advowson by C. were not in existence, the turn on this voidance would belong to us. And I say that you have yourself confessed that C. and D. were seised of the advowson in common by descent, in which case one of them could not give anything to the other, but if anything could accrue to D. it would be by a deed executed during her seisin, which deed could not be the subject of an averment; and, inasmuch as you do not produce it, we demand judgment.—*Pole.* If anyone gives me an advowson, which, being in his hand, was appendant, he cannot sever it without a specialty, nor can I claim it against him without a specialty; but if I have a presentation afterwards, by which the grant becomes executed, and I am in possession, then I can very well plead the grant; so also in our case, since we have affirmed a presentation made by us since the grant, by which the grant became executed, there is now no necessity to produce a specialty of the grant.—*Grene.* In the case which you put, where an advowson which was appendant is severed by grant, if the grantee afterwards presents he puts the other out of possession; for, if the grant is worthless without a specialty, the presentation which the grantee makes is of no other force than it would have been if a grant had never been made; but in the case in which we are the presentation which you made did not put the infant's ancestor

No. 18.

Der. Et nous demandoms jugement puis qe nous avoims surmys qele dona et graunta lavoweson a D., quele chose purra chere en conissaunce de pays, et ceo saunz especialte, par quei nous demandoms jugement.—*Grene.* Il ny ad nent plus mes si le graunt del avoweson par C. ne fuist a ceste voidaunce le tourn appendreit a nous. Et jeo die qe vous mesmes avetz conu qe C. et D. furent seisiz del avoweson en comune par descente, en quel cas lun ne pout rienz doner al autre, mes si riens accresfereit a D. ceo serra par un fait en sa seisin, quel fait ne poait estre avere; et de ceo qe vous ne moustrez rienz de ceo, nous demandoms jugement.—*Pole.* Si un homme me douné un avoweson quel fut en sa meyn appendant, il ne le poet severer saunz especialte, ne jeo ne le puisse clamer countre luy saunz especialte; mes si jeo eye un presentement apres par quel le graunt est execut, et jeo en possessioun, adonques-jeo le pledray assetz bien; auxi en nostre cas, puis qe nous avomis afferme puis le graunt en nous presentement, par quel le graunt fut execut, il ne covent pas a ore demoustrarre especialte del graunt.—*Grene.* En le cas qe vous mettez, la ou une avowesoun qe fust appendant est severe par graunt, sil presente apres il mette lautre hors de possessioun; qar si le graunt ne vaut rienz saunz especialte, le presentement qil fait est de nul autre force qe si unques graunt ne fust; mes en le cas ou nous sumes le presentement qe vous feistes ne mist pas launcestre

“ Rudmerleghe non fuit admissus,
“ institutus, &c., ad præsentationem
“ prædictorum Johannis de Ingham
“ et Albrede, que non est sufficiens
“ responsio ad destruendum ti-
“ tulum domini Regis in hoc casu,
“ ex quo non dedit quin iste sit
“ quintus turnus ad heredem præ-
“ dictæ Albrede pertinens. Et quo
“ ad hoc quod allegat quod prædicta

“ Albreda dedit et concessit advo-
“ cationem prædictam præfatæ
“ Johannæ filiæ Isabellæ, ad quod
“ requiritur habere aliquod factum
“ speciale per quod donatio et con-
“ cessio prædictæ testari possent,
“ de quo nihil Curiæ hic ostendit.
“ unde petit judicium pro domino
“ Rege, et breve Episcopo, &c.”

No. 14.

A.D. 1346. out of possession since you were parceners, **and** the turn now belongs to us, and what you *allege* to annul our claim so that we cannot claim any turn is the grant of the ancestor, which must have been made during D.'s seisin, and that could not be without specialty; therefore we demand judgment, &c.—And thereupon they were adjourned.¹

Deceit.

(14.) § John Daune, knight, sued a writ of Deceit in respect of an execution awarded against him on a *Scire facias* through his default. The garnishers now appeared, and were examined, and it was found that the tenant had been warned by them to be at Westminster, on the day mentioned in the *Scire facias*, to answer to the plaintiff then whether he could say anything wherefore the plaintiff should not have execution in accordance with the form of the fine. And the under-sheriff also was there, and was sworn; and it was found by examination that the tenant had been warned by the garnishers.—Therefore WILLOUGHBY gave judgment:—Because it had been found by examination that the tenant had been warned by them to answer to the

¹ The report is continued in Y.B., Mich., 20 Edw. III., No. 28.

No. 14.

lenfaunt hors de possessiouun, puis qe vous estoiez A.D. 1346.
parceners, et le tourn a ore est a nous, et ceo qe
vous alleggez de anentir qe nous ne poms nul
tourn clamer ceo est le graunt launcestre, quel
covendroit aver este fait en la seisine D., qe ne
poet estre saunz especialte; par quei nous demandoms
jugement, &c.—Et sur ceo sont ajournetz.¹

(14.)² § Johan Daune, chivaler, suyst un brief de Deceytc.
Deceite dun execucion agarde vers luy en un *Scire facias* par sa defaute. Les garnissours vindrent a
ore, et furent examinez, et trove qe le tenant fut
garni par eux destre a Westmestre tiel jour, come
le *Scire facias* voleit, a respoundre al pleintif
adounques sil savoit rienz dire pur quei il navereit
execucion solonc la forme de la fine, &c. Et auxi
le soutz vicounte fust la, et fust seremente; et
trove par examinement qil fust garny par eux.—
Par quei WILBY. agarda qe pur ceo qe par examine-
ment fut trove qil fust garny par eux a respoundre

¹ The pleadings subsequent to the replication were, according to the record, "Laurencius dicit quod ipse superius in placito suo non cepit tantummodo pro finali responsione quod prædictus Walterus de Rudmerlegh non fuit admissus, &c., ad presentationem prædicti Johannis de Ingham et Albrede, sed etiam quod prædictus Albrede dedit et concessit eandem advocationem prædictæ Johannæ in forma qua ipse superius supponit, virtute quarum donationis et concessionis eadem Johanna fuit sola advocata ecclesiæ prædictæ, et ipsa et heredes sui et antecessores ejusdem Laurencii semper postea præsentarunt ad eandem, &c., et sic dicit quod ipse est solus advocatus ecclesiæ prædictæ, per

"quod non intendit quod dominus Rex, in jure præfate Mariæ, cuius antecessor, &c., se dimisit de advocatione illa, aliquid in præsentatione ad ecclesiam prædic tam habere possit, &c.
"Et Johannes [de Clone] qui sequitur, &c. [i.e. pro domino Rege], dicit, ut prius, quod, ex quo prædictus Laurencius non ostendit Curia hic aliquid speciale factum, quod prædictas donationem et concessionem præfate Johannæ per prædictam Albredam testatur, petit judicium pro domino Rege et breve Episcopo."

Adjournments follow, and apparently nothing else, but the roll is in bad condition and to a great extent illegible.

² From H., and I.

Nos. 15, 16.

A.D. 1346. plaintiff as is above said, and that fifteen days before the return of the writ, therefore take nothing by your writ, &c.

Deceit.

(15.) § A writ of Waste was sent to the Sheriff for him to enquire of waste, and waste was found, and therefore the plaintiff recovered. And now the defendant prayed a writ of Deceit on the ground that he had not been summoned, attached, or distrained, and the writ was granted, notwithstanding the fact that the plaintiff recovered by verdict, and not by default. Therefore he prayed that the writ might issue to the Coroners, because the Sheriff was, in a manner, a party; but he could not have it so, but only a writ directed to the Sheriff, as in the case of other writs of Deceit grounded on non-summons or non-garnishment, &c.

Attachment on Prohibition.

(16.) § The King brought an Attachment on Prohibition against Roger de Mangers, and counted, by *Notton*, that whereas the King had presented to the church of E. one Richard de Skarles, his clerk, who on his presentation was admitted and instituted by the Bishop of L., this Roger sued divers processes, at the Court of Rome, against this same Richard in respect of the same church, upon which he sued a citation to Richard to appear at the Court of Rome to show wherefore he had held the said church contrary to the provision of the said Court made to the said Roger, as well as a citation to the Abbot of Ramsey to whose patronage this church belonged, and therefore the King sent his Prohibition to the said Roger that he should intermeddle no further in that matter. And that Prohibition was delivered to him by such an one and such an one, on such a day, &c. And the said Roger, after the said prohibition, encroached upon the patronage, and afterwards made other citations to

Nos. 15, 16.

al pleintif come desus est dit, et ceo xv. jours avant A.D. 1346.
le brief retourne, par quei ne preignetz rienz par
vostre brief, &c.

(15.)¹ § Un brief de Wast fust mande al Vicounte Deceyte.
denquere le wast, et le wast trove, par quei il [Fitz.,
recoveri. Et ore le defendant pria un brief de [5.]
Desceite pur ceo qe il ne fust pas somons, attache,
ne destreint, et le brief graunte, nient countreesteaunt
qil recoveri par verdict, et ne mye par defaute. Par
quei il pria qe le brief issit a les Coroners, pur
ceo qe le Vicounte est en manere partie; mes
il ne le poait aver, mes al Vicounte direct come en
autres briefs de Deceite par cause de nounsonmons ou
de noungarnissement, &c.

(16.)¹ § Le Roi porta un Attachement sur la prohibicion vers Roger de Maners, et counta, par Nottone, qe come le Roi ust presente al eglise de E. un son clerk Richard de Skarles,² qe a soun presentement fust resceu et institut del Evesqe de L., le quel Roger a la Court de Rome suyst divers proces vers mesme celi Richard de mesme leglise, hors de quel il suyst une citacioun a Richard destre a la Court de Rome a moustrer pur quei il avoit tenu la dite eglise contre la provision de la dite Court fait al dit Roger, et ceo al Abbe de Rameseye, de qil avowere cele eglise fust, par quei le Roi maunde sa prohibicion al dit Roger qe mes ne se mellast de ycele, quel prohibicion fust livere a lui par un tiel et un tiel, tiel jour, &c. Et le dit Roger, apres la dite prohibicion, riwa³ en lavowere,⁴ et apres fist autres citacions al

¹ From H., and I.

² I., Scharles.

³ I., rewa.

⁴ H., la Bowe.

No. 16.

A.D. 1346. the said Richard, and also to the Abbot of Ramsey, to appear at the Court of Rome on a certain day to answer wherefore he had acknowledged the presentation on that voidance to belong to the King by collation (whereas the presentation belonged to him) so as to nullify the provision granted by the said Court. And all this was done tortiously and in subversion of the royal right of our Lord the King and of his Crown, and in contempt of the commands of our Lord the King, and to the damage, &c.—*Huse* defended, and demanded judgment of the count, on the ground that *Notton* had counted that Roger had sued divers processes at the Court of Rome, and had not stated definitely what they were; judgment. — And this exception was not allowed.—Therefore *Huse* said, as to the delivery of the Prohibition, that none was delivered to him; ready, &c. And as to the rest he pleaded Not Guilty. — And both issues were admitted.—The defendant prayed that he might be allowed to find mainprise.—*Thorpe*. You cannot have it, because our suit is that you have sued matters such that you, as far as in you lies, thereby deprive the King of the rights of his Crown; therefore you cannot be on mainprise.—*Birton*. All your suit is only by way of suggestion, and we have tendered an averment to the contrary of that, and therefore you are no more to be believed, since we have denied your statement, than we are; therefore we pray our mainprise.—*WILLOUGHBY*. We will consider whether you are in a condition to be held to mainprise in this case, or not.—And afterwards he was let out on mainprise, &c.—*WILLOUGHBY* and all the Justices said that if the defendant, in the meantime, made any appeals or citations to Rome, the mainpernors would be held to ransom at the King's will, without being allowed to make a fine as in respect of a

No. 16.

dit Richard, et auxi al Abbe de Rameseye, destre a A.D. 1346.
la Court de Rome a certain jour a respoudre par
quei il avoit conu le presentement a cele voidaunce
al Roi par collacion, la ou le presentement atteny
a luy, pur ouster la provisioun graunte par la dite
Court, a tort, et en enervacioun de dreit Real nostre
seignur le Roi et de sa Corone, et en despit les
maundementz nostre seignur le Roi, et as damages,
&c.—*Huse* defendi, et demanda jugement de counte,
pur ceo qil avoit counte qe Roger avoit suy divers
proces a la Court, et nad pas determine queux ils
furent; jugement.—*Et non allocatur*.—Par quei il dit
qe quant a la livre de la prohibicion qe nulle lui
fust livre; prest, &c. Et quant al remenant, de
rienz coupable.—Et lissue sur lun et lautre resceu.
—Le defendant pria qil pout trover meynprise.—
Thorpe. Vous naveretz pas, qar nostre suyte est qe
vous avetz suy tielx¹ choses pur queux vous, en
taut come en vous est, tolletz le Roi sa Corone;
par quei vous nestes pas meynpernable.—*Birtone*.
Tut vostre suyte nest mes suggestif, et le contrare
de cele avoms teudu daverer, par quei vous ne
serrez nient plus crue, puis qe nous lavoms dedit, qe
nous ne serroms; par quei nous prioms nostre meyn-
prise.—*Wilby*. Nous aviseros le quel vous soietz
en cel cas meynpernable, ou nient.—Et puis il fut
lesse a meynprise, &c.—*Wilby*. et touz les Justices
disoient qe si le defendant, en le mene temps, fait
asquns appels ou citacions qe les meynpernours
serrount reintz a la volonte le Roi saunz fine faire

¹ I., tieux.

No. 17.

A.D. 1346. common mainprise, and that even though they brought in the defendant's body on the appointed day.

*Quare
impedit.*

(17.) § The King brought a *Quare impedit* against William Bishop of Winchester, and counted that it belonged to him to present to the precentorship of L.¹ [and that the Bishop prevented him] and tortiously because one Adam Bishop of Winchester was seised of the advowson of the precentorship as of fee and of right, and presented this William who is now Bishop, and after the death of Adam the temporalities were seized into the King's hand; and he said that by provision of the Pope the bishopric was granted to William, which provision William accepted, and was afterwards confirmed, and by that provision of the bishopric the precentorship became void, while the temporalities were in the King's hand, and so it belongs to the King to present.—*Derworthy*. We tell you that it is true that we had the bishopric by provision of the Court of Rome, and we do not understand that by reason of that provision the precentorship could be void until we were consecrated. And we tell you that a quarter of a year before we were consecrated, to wit, on such a day, the King made livery to us of all our temporalities, fees, and advowsons. And we tell you that we

¹ As to the precentorship, see p. 527, note 1.

No. 17.

come dune comune meynprise, mes qils eyent le A.D. 1346
corps a jour, &c.

(17.)¹ § Le Roi porta *Quare impedit* vers William ^{*Quare impedit.*} Evesqe de Wyncestre, et counta qe a luy appent a presenter a la chaunterye de L., et pur ceo atort qun Adam Evesqe de Wyncestre fut seisi de lavowesoun de la chaunterye come de fee et de dreit, et presenta celi William qest ore Evesqe, et apres la mort A. les temporaltes furent seisiz en la meyn le Roy; et dit qe par la purveaunce del Appostoil² levesche³ fut graunte a William, quele purveaunce il accepta, et puis fut conferme, par quele purveaunce del evesche la chaunterye se voida, esteauntz les temporaltes en la meyn le Roy, et issi, &c.⁴—Der. Nous vous dioms qe verite est qe nous avions levesche par la purveaunce de la Court, et entendoms qe par cele purveaunce taunge nous fumes sacre voide la chaunterie ne put estre. Et nous dioms qun quarter del an avant qe nous fumes sacre, saver, tiel jour, le Roi nous fist livre de noz temporaltez, fees, et avowesouns. Et nous

¹ From H., and I., but corrected by the record, *Placita de Banco*, Trin., 20 Edw. III., R^o 85, d. It there appears that the action was brought by the King against William, Bishop of Winchester, in respect of a presentation "ad præcentoriam ecclesie beatæ Mariæ juxta Southampton nuper vacante, et ad Regis donationem spectantem ratione Episcopatus Wytoniensis nuper vacantis et in manu Regis existentis."

² Appostoil is omitted from I.

³ I. Evesche.

The declaration was, according to the record, "quod quidam Adam de Orletona nuper Episcopus Wytoniensis fuit seisisitus de advocatione præcentoriæ præ-

"dictæ ut de jure Episcopatus sui prædicti, qui eandem præcentoriam contulit cuidam Willelmo de Edyngtone, clero suo, et eum induxit in eandem.
"Et postea Episcopatus prædictus devenit in manum domini Regis nunc per mortem prædicti Adæ de Orletona, quo tempore dominus Clemens nunc Papa providit præfato Willelmo de Edyngtone Episcopatum Wytoniensem, qui quidem Willelmus provisionem illam acceptavit, et confirmatus est, &c., ratione quarum prævisionis, acceptationis, et confirmationis prædicta præcentoria vacat, per quod ad ipsum dominum Regem pertinet ad præcentoriam prædictam præsentare."

No. 18.

A.D. 1346. were consecrated a long time afterwards, and that at that time the precentorship became void, at which time we had had the patronage delivered to us out of the King's hand, and we do not understand that in respect of that voidance the King can assign tort in our person, &c.¹

Avowry. (18.) § One avowed a taking on the ground that there had been granted to the King by the whole community of the realm a fifteenth of their goods, to be levied during the two years next following, for which reason one A.² and B.² had been appointed collectors and takers in that county, and they had appointed the avowant, because he was one of the dozeners of the vill of R.² to collect

¹ There is a continuation or another report of this case in Y.B. Mich., 20 Edw. III., No. 60.

² For the names, see p. 531. note 1.

No. 18.

dioms qe longe temps apres nous fumes sacre, A.D. 1346.
 a quel temps la Chaunterye voida, a quel temps
 nous avions lavowere a nous livre hors de la
 meyn le Roi, et nentendoms pas qe de cele
 voidaunce le Roi purra en nostre persone tort
 assigner, &c.¹

(18.)² § Un avowa un prise par la resoun qe *Avowere*.
 grante fuist al Roi par tut la comune de la terre [Fitz.,
 la xv. des biens, a lever par les ij. auns proscheyn *Avowere*,
 130.] apres, par quei un A. et B. furent assignez en cel
 counte coillours et pernours, les quex assignerent luy,
 pur ceo qil fut un des dezeiners de la ville de R.

¹ The plea was, according to the record, "Episcopus . . . bene cognoscit quod praedictus Adam nuper Episcopus, predecessor, &c., fuit seisisus de advocatione praecentoriæ praedictæ, ut de jure Episcopatus sui praedicti, qui eandem contulit eidem Willelmo nunc Episcopo, tunc clero suo, et eum induxit in eadem, et similiter quod postea temporalia Episcopatus praedicti devenerunt in manum domini Regis per mortem praedicti Adæ nuper Episcopi, et quod Papa providit eidem Willelmo de Episcopatu praedicto. Et dicit quod dominus Rex restituit eidem Willelmo omnia temporalia, feoda, et advocationes ejusdem Episcopatus quintodecimo die Februarii anno regni domini Regis nunc vicesimo, quo die et postmodum idem Willelmus fuit praecitor praedictæ ecclesiæ beate Mariæ usque ad quartumdecimum diem Maii proxime sequentem quod idem Willelmus consecratus fuit in Episcopum Wyntonensem, quo quartodecimo die praecentoria

"praedicta vacavit per consecrationem praedictam. Et dicit quod ipse est verus patronus ejusdem quo die ipse fuit seisisus de advocatione praedictæ præcentoriæ, et fuit die consecrationis praedictæ, et diu ante. Et petit judicium si dominus Rex aliquam injuriam in persona ipsius Episcopi assignare possit, &c."

There are several further pleadings on the roll, which, however, becomes, to a great extent, illegible towards the end.

² From H., and I., but corrected by the record, *Placita de Banco*, Trin., 20 Edw. III., R^o 47, d. It there appears that the action was brought by Thomas de la Lynde against Philip atte Pole and others, for that they took eleven pigs, "in villa de Dynyngton in quodam loco vocato le Northfelde, . . . et eos injuste detinuerunt contra vadum et plegios quounque septem porci de praedictis undecim porcis deliberati fuerunt per ballivum Regis, &c., et quatuor porcos residuos adhuc penes se detinet, &c."

No. 18.

A.D. 1346. and levy the fifteenth throughout the whole tithing, and he and the tenants of the land which he held had always been assessed within the tithing in accordance with the quantity of that land and of the goods which they had within the tithing, and because the plaintiff's portion amounted to the sum of ten shillings the avowant did take the beasts; and we tell you (said his Counsel) that three of the beasts died for want of food, and that through your fault, and we avow, &c.—*Huse*. Sir, you see plainly that this parol has been removed into this Court at his suit on the ground that he distrained within his fee for services, &c., and now he avows for another cause; judgment whether he ought to be admitted to this.—

No. 18.

de coiller et lever la quinzisme par tute la dezenne, A.D. 1346.
 et il et les terre tenantz qil tint ount este tut
 temps taxes deinz la dezenne solonc la quantite de
 cele terre et des biens qils avoient deinz la dezenne,
 et pur ceo qe la porcion le pleintif fust assumme
 a x.s. si les prist il; et vous dioms qe iij. de les
 bestes sont mortz en defaute de pestre, et issi par
 vostre defaute, et avowoms, &c.¹—*Huse.* Sire, vous
 veietz bien coment cest paroule est remue a
 sa suyte pur ceo qil destreigna deinz son fee
 pur services, &c., et ore avowe il pur autre
 cause; jugement si a ceo deive avenir, &c.—

¹ The avowry of Philip, for himself and the others, was, according to the record, "quod anno regni domini Regis nunc Angliae decimo octavo per communitatem totius Angliae quædam quindena concessa fuit domino Regi pro anno illo et pro quodam alio anno proxime sequente, pro qua quidem quindena levanda in Comitatu predicto quidam Johannes de Durburgh et Robertus de Somertone assignati fuerunt per commissionem domini Regis, qui quidem Johannes et Robertus onerabant et assignabant decennarios cuiuslibet decennæ ad levandum de qualibet decennæ, et de omnibus qui cum predictis decennis dare et contribuere solebant, portiones suas dictas decennas continententes. Et dicit quod ipse Philippus, tunc deceunarius de Alwynesheghe assignatus fuit et oneratus per predictos Johnem et Robertum ad levandum de decenna predicta, et de omnibus qui cum decenna illa

"dare et contribuere solebant,
 "quindenam predictam. Et
 "quia predictus Thomas tenet
 "quædam terras et tenementa
 "vocata la Hyle Castellonde
 "et Northfelde, unde predictus
 "locus in quo, &c., est parcella,
 "pro quibus terris et tenementis,
 "et catallis in eisdem existentibus,
 "cum decenna predicta
 "ad hujusmodi tallagium et
 "concessionem dari et contribui
 "solebat, et pro terris et tenementis
 "ac aliis bonis et catallis in eisdem
 "existentibus portio predicta Thomæ
 "se extendebat ad sex solidos et
 "octo denarios, quos quidem
 "denarios idem Thomas solvere
 "omnino recusavit, ipse Philippus
 "ad tunc deceunarius, &c., pro
 "denariis illis cepit porcos predictos, prout ei bene licuit, &c.
 "Et quo ad predictos quatror porcos, &c., dicit quod, pro eo quod predictus Thomas predictos porcos depascere noluit, iidem porci mortui sunt in falda in defectu ejusdem Thomæ.
 "Et hoc paratus est verificare, unde petit judicium, &c."

No. 18.

A.D. 1346 SHARSHULLE. The parol is now removed into this Court, and the question whether the parol is false or true is not to be discussed now; therefore answer.—*Huse*. Judgment of the avowry: for he has supposed that we were assessed at that sum for which he avows, and he has not stated for what we were assessed; judgment.—*Grene*. We did not say that you were assessed, but that your portion amounted to so much, as we have avowed.—*Birton*. Our portion cannot be levied until we are assessed by assessors at a certain sum; therefore, inasmuch as you have avowed the taking for that cause without assessment, the avowry is faulty.—WILLOUGHBY. He says that your portion amounts to that sum according to the quantity of your lands and goods; and he has avowed, as the King's officer, in respect of something due to the King, in which case he understands that he can levy it according to his estimate, without assessment; and, in case he has put the sum of your portion higher than is right, you will have a plea to discharge yourself of the excess; therefore answer.—*Huse*. We say that the same land is within the tithing of B. and not within the tithing of R., and that we had not any goods or chattels within that tithing, but we tell you that our portion has been levied within the tithing of B., and has always been assessed within that tithing; and we say that in the fifteenth year of the reign the defendant took a distress from us, as dozener of R., for our portion, and he caused us to pay a fine for having our beasts back, for paying which fine we recovered our damages before Justices of Trailbaston, *absque hoc* that the portion of land which we hold was ever subjected to payment or assessed in any other manner within the tithing

No. 18.

SCHARS. La paroule est remue ceins a ore, et le A.D. 1346.
 quel qe la paroule soit faux ou veritable nest pas
 a parler a ore; par quei responcez.—*Huse.* Jugement
 del avowere: qar il ad suppose qe nous fumes assis
 a cele somme pur quel il avowe, et nad pas dit pur
 quei nous fumes assis; jugement.—*Grene.* Nous ne
 deymes pas qe vous fustes assis, mes qe vostre
 porcion amonta a tant, come nous avoms avowe.—
Birtone. Nostre porcion ne poet estre leve taunge
 nous soioms assis par asseours en un certeyn; par
 quei, en taunt come vous avetz avowe la prise pur
 cele cause saunz asserement, lavowere pecche.—
Wilby. Il dit qe solonc la quantite de voz terres
 et biens vostre porcion amont a cele summe; et il
 ad avowe, come ministre le Roi, de chose diwe al
 Roi, en quel cas il entent qe, saunz asserement,
 solonc sa estimacion il le purra lever; et, en cas
 qil eit assumme vostre quantite plus qe resoun ne
 voet, vous averez plee a vous descharger del surplus;
 par quei respondez.—*Huse.* Nous dioms qe mesme
 la terre si est deinz la dizeyne de B., et nent deinz
 la dizeine de R., ne nulles biens ne chateux deinz
 cele dizeine avioms, mes vous dioms qe deinz la
 dizeine de B. nostre porcion est leve, et de tut temps
 deinz cele dizeine taxe; et nous dioms qe lan xv.
 le defendant prist une destresse de nous, come
 dizeiner de R., pur nostre porcion, et pur reaver
 noz bestes il nous fist faire fine, pur quel fine
 faire devant Justices de Traillbastoun¹ nous
 recoverimes² noz damages, saunz ceo qe en autre
 manere fut la porcion de la terre qe nous
 tenoms unques paie ou³ taxe deinz la dizeine

¹ H., Trailliastoun.² H., resceimes.³ I., ne.

No. 18.

A.D 1346. of R., except on that occasion by the payment of the fine, which was afterwards redressed by judgment; and we do not understand that he can as dozener of R. avow the distress for that cause.—*Grene*. And we say that the tenants of the land of which you are tenant have been assessed within the titheing of R. for their goods and chattels within the same tenement, and that the sum has been levied by the dozeners of R.; and that we are ready to verify.—*Huse*. That none of the ter-tenants nor we ourselves were ever assessed, and that nothing was levied from us within the titheing

No. 18.

de R. [fors qe a cele foithe pur la fyn faire, quel A.D. 1346.
apres fuist puny par jugement; et nous nentendoms
pas qil come dizeyner de R. poait par cele cause la
destresse avowere.¹—*Grene*. Et nous dioms qe les
terre tenantz de qi vous tenetz pur lour biens et
chateux deinz mesme le tenement ount este taxez
deinz la dizeyne de R.],² et par les dizeiners de
R. la summe leve; et ceo sumes prest daverer.³—
Huse. Qe nul des terre tenantz ne nous unques
estoioms taxez ne de nous leve deinz la dizeyne

¹ The plea was, according to the record, “quod anno regni domini Regis nunc undecimo quoddam subsidium triennale concessum fuit eidem domino Regi, et ad subsidium illud levandum certi homines fuerunt deputati in Comitatu prædicto qui ipsum Thomam pro portione ipsum contingente pro terris et tenementis suis prædictis et rebus suis in eisdem existentibus distrinxerunt ad solvendum cum hominibus de Alwyneshaghe, et ipsum vi et armis ad portionem illam solvendam compulserunt, per quod ipse Thomas postmodum per viam juris tantum prosecutus fuit versus eosdem collectores et assessores triennalis prædicti quod ipsi eidem Thomas de transgressione prædicta et extorsione satisfecerunt, ubi prædictus Philippus supponit ipsum Thomam dedisse et contribuisse ad hujusmodi tallagium cum illis de decenna de Alwynesheghe pro terris et tenementis supra dictis, ipse Thomas nec aliquis alias quorum statum ipse habet in tenementis prædictis unquam solebat aliquid solvere ad hujusmodi tallagium cum illis de decenna de Alwynesheghe præ-

“dicta nisi tantum illa vice quando solutio inde facta fuit per extorsionem in forma qua ipse superius allegavit. Et hoc paratus est verificare, &c.”

² The words between brackets are omitted from H.

³ Philip's replication was, according to the record, “quod prædictus Thomas et omnes illi quorum statum idem Thomas habet in prædictis tenementis semper solabant dare et contribuere ad hujusmodi tallagium cum hominibus de decenna de Alwynesheghe pro prædictis terris et tenementis ac bonis et catallis in eisdem existentibus, sicut ipse in advocare suo prædicto supponit.”

Issue was joined upon this, and the *Venire* was awarded.

“Et quo ad prædictos quatuor porcos, &c., prædictus Thomas de Lynde dicit quod postquam porci illi capti fuerunt ipse non potuit habere visum de eisdem, per quod dicit quod porci illi mortui sunt in defectu prædicti Philippi, et non in defectu ipsius Thonæ.”

Issue was joined upon this also, and the *Venire* was awarded.

Nothing further appears on the roll.

Nos. 19-21.

A.D. 1346. of R., except that once when we paid a fine, for the payment of which fine we recovered our damages, ready, &c.—And the other side said the contrary.

Aiel. (19.) § A writ of Aiel was brought in respect of ten acres of land.—*Birton*. We say that heretofore he brought a like writ against us, and demanded a moiety of a fishery in the river Lea, upon which we made default, and the *Cape* issued, and the same land as that which is now demanded was then put in view, and afterwards we performed our law as to non-summons, and for that reason the writ abated, and this writ has been purchased while the other was pending; judgment of the writ.—*Notton*. Since we now demand land, and the other demand was of a fishery, which cannot be the same thing as that which we demand now, we therefore demand judgment, and seisin of the land.—*WILLOUGHBY*. A fishery cannot be land, nor *e contra*; therefore answer.—*Birton*. The grandfather did not die seised; ready, &c.

The
prayee in
aid
vouched. (20.) § A tenant for term of life prayed aid of the reversioner, who was ready in Court on the same day, and joined himself with the tenant, and vouched the person who had granted the reversion to him. And he was admitted to vouch notwithstanding the fact that the prayee in aid had not appeared in virtue of process. And it was said that the voucher was thus made in haste in order to prevent the vouchee making a conveyance of his land, &c.

Essoin. (21.) § Thomas Longevillers brought a writ by different *Præcipes* against different persons. One tenant vouched, and the *Sequatur suo periculo* was awarded against the vouchee. And on the *Præcipe* on which the tenant vouched they had one day, and on the other *Præcipes* another day. And on

Nos. 19-21.

de R. sauve cele unfoitz qe nous feimes fyne, et A.D. 1346:
pur quele fyne faire nous recoverimes nos damages,
prest, &c.—*Et alii e contra.*

(19.)¹ § Brief Daiel porte de x. acres de terre.—Aiel.
Birtone. Nous dioms qe autrefoitz il porta autiel [Fitz.,
brief vers nous, et demanda la moite de la pescherie [Briefe,
685.] del eawe de Leye, ou nous feimes defaut, et le *Cape*
issit, et mesme la terre ore demande adonques² mys
en vewe, et puis nous fey whole la leye de noun
somons, par quei le brief abatist, et ceste brief
purchase pendant lautre ; jugement de brief.—
Nottone. Puis qe nous demandoms ore terre, et
lautre fut de pescherie, qe ne poet estre mesme
la chose qe nous demandoms a ore, par quei nous
demandoms jugement, et seisine de terre.—WILBY.
Pescherie ne poet estre terre, *nec e contra* ; par quei
responez.—*Birtone.* Laiel ne murust pas seisi;
prest, &c.

(20.)¹ § Tenant a terme de vie pria eide de celi Le prie
en reversion, qe fut prest en Court a mesme le ^{en eide} voucha.⁴
jour, et se joint, et voucha celi qe luy avoit grante [Fitz.,
la reversion. Et resceu nient countre esteaunt qe le ^{Joindre en} Ayde, 12.]
prie en eide ne vint pas par proces. Et fust dit qe.
le voucher fut fait si en haste pur ouster al vouche
qil ne freit pas demise de sa terre, &c.

(21.)¹ § Thomas Longevillers porta brief par divers Essone.
Præcipe vers divers gentz. Un tenant voucha, [Fitz.,
et *Sequatur suo periculo* agarde vers le vouche. ^{Non sicut,} 27.]
Et en le *Præcipe* ou le tenant voucha ils avoient
un jour, et en les autres autre jour. Et al

¹ From H., and I.

² adonques is omitted from I.

³ I., fismes.

⁴ The marginal note is from H.

alone.

No. 22.

A.D. 1346. one of the *Principes* Thomas was nonsuited. And now the tenant who vouched demanded judgment, on Thomas's nonsuit, with regard to all the *Principes* by reason of the nonsuit on one.—And it was said by HILLARY that, if he had had one day on all the *Principes*, nonsuit on one would have been nonsuit on all; but now he had different days, and therefore the nonsuit on this day will determine only that which has been pleaded on this day.—Therefore a common essoin was cast for the tenant.—And exception to it was taken by Thorpe, on the ground that, inasmuch as the Court was apprised that he had not sued against the vouchee, and therefore his tenancy was lost without anything further, therefore an essoin did not lie for him.—HILLARY. This is a case in which if the tenant comes into Court he will lose his land, and if he makes default he will save it, and therefore, unless you can show that he has been essoined since the voucher, we shall now adjudge the essoin.—And in the end the essoin was adjudged, and a day was given.¹

Dower.

(22.) § On a writ of Dower, *Richemunde*, for the tenant, vouched one J., son and heir of the husband.—*Skipwith*, for J., appeared on the same day, and entered into warranty as one who had nothing by descent in fee simple, and rendered dower to the woman.—*Richemunde*. We say that this is not the same person that we have vouched; ready, &c.—And he was not admitted to this without assigning a diversity of father or mother.—Therefore he said that the person who proffered himself was the son of a stranger, and not the son of the husband, and so not the same person; ready, &c.—*Skipwith*. The same person that you have vouched; ready, &c.—And the issue was accepted, &c.

No. 22.

autre *Præcipe* Thomas fut nounsuy. Et ore le tenant A D. 1346. qe voucha demanda jugement de sa nounsute as touz les *Præcipe*, par la nounsute del un.—Et fust dit par HILL. qe sil ust eu un jour a touz les *Præcipe* qe nounsute a un serreit nounsute a touz ; mes a ore il avoit divers jours, par quei la nounsuyte a cel jour terminera mes ceo qe fust plede a cel jour.—Par quei un comune essone fust gettu pur le tenant.—Et chalaunge par Thorpe, de ceo qe par taunt qe Court est apris qe il nad pas suy vers le vouche, et par taunt sa tenance perdu saunz plus, par quei essone pur luy ne gist mye.—HILL. Ceo est un cas la ou si le tenant viegne en Court il perdra sa terre, et sil face defaute il le sauvera, et pur ceo, si vous ne poetz moustrer qil eit este essone puis le voucher, nous lajuggeroms a ore.—Et au drein lessone fust ajugge et ajourne.

(22.)¹ § En· Dowere Rich., pur le tenant, voucha un J., fitz et heir le baron.—Skip. pur J., vient a mesme le jour, et entra en la garrantie come celi qe rienz navoit par descente en fee simple, et rendi dowere a la femme.—Rich. Nous dioms qil nest pas mesme la personne qe nous avoms vouche; prest, &c.—Et nent resceu saunz doner diversite de pere ou de mere.—Par quei il dit qe celi qe se profri est le fitz un esstraunge, et ne mye le fitz² le baron, et issi nent mesme la personne; prest, &c.—Skip. Mesme la personne qe vous avetz vouche; prest, &c.—Et lissue resceu, &c.

¹ From H., and I., until other- | ² H., fitz.
wise stated. |

Dowere,
[Fitz.,
Voucher,
128.]

Nos. 23, 24.

A.D. 1346. § Note that a writ was brought against a tenant, Voucher. whereupon the tenant vouched to warrant, and to the summons there appeared one who said that he was the person whom the tenant had vouched, and was ready to warrant, and to render dower to the woman, as one who had nothing by descent.—And the tenant said that he was not the same person, and assigned diversity of person, and the issue was accepted.—But *quere* to what purpose this issue is taken, for if the verdict pass for the tenant to the effect that he is not the same person as the person vouched, then it is right that the defendant should recover, and that the tenant should not recover over to the value, because it is not the person whom he has vouched; and if the finding be against the tenant to the effect that it is the same person, he will lose the land.—But the practice used to be that the diversity which the tenant assigned was entered, and the person who appeared¹ was absolved, and process was made against the other who did not appear.¹

Right. (23.) § On a writ of Right the mise was joined, and the half-mark was tendered for the time,² and pledges thereof were found immediately.

Ravish-
ment of
Ward. (24.) § Robert de Hakebeche brought a writ of Ravishment of Ward, and counted that the infant's ancestor held two acres of land of one J.³ by knight service, and that J.³ leased the wardship to him.—The defendant said, by *Grene*, that the infant's ancestor

¹ See further Y.B., Mich., 20 Edw. III., No. 78.

² For the meaning of this, see Fitz., Droite, 26.

³ For names and further particulars, see the record of the declaration printed Y.B., Mich., 16 Edw. III., p. 345, note 9.

Nos. 23, 24.

§ *Nota*¹ qun brief fuit porte vers un tenant, ou le A.D. 1346.
 tenant voucha a garraunt, et a la Somons vynt un, Voucher.
 et dit qil fuit celuy qe le tenant avoit vouche, et
 fuit prest de garrauntir, et rendre dowere a la femme,
 come celuy qe rienz navoit par descente.—Et le
 tenant dist qil ne fuit mie mesme la personne, et
 dona diversite de persone, et lissue resceu.—*Sed*
quere a quel effecte ceste issue est² pris, qar sil
 passe pur le tenant qil nest pas mesme la personne
 qest vouche, donqes est il resoun qe le demandant
 recovere, et le tenant mie en la value, pur ceo
 qil ne est pas la persone qil ad vouche; et,
 si trove soit countre³ le tenant qe mesme la
 personne, il perdra terre.—Mes homme soleit
 entrere la diversite quel le tenant dona, et il
 assouth qe vint, et proces fait vers lautre⁴ qe ne
 vint pas.

(23.)⁵ § En brief de Dreit la myse fust joynt, et Dreit.
 demi marc pur le temps fut tendu, et plegges de [Fitz.,
 ceo tautost trovez. *Droite,*
 16.]

(24.)⁶ § Robert de Hakebeche⁸ porta brief de Ravisement
 Ravisement de Garde, et counta qe launcestre de Garde.⁷
 lenfant tient ij. acres de terre dun J. par service [Fitz.,
 de chivaler, le quel J. luy lessa la garde.—Le Garde,
 defendant dit, par *Grene*, qe launcestre lenfant tient 41.]

¹ This report of the case is from L., and C.

² C., estre.

³ I., vers.

⁴ L., celuy.

⁵ From H., and I.

⁶ From H., and I., until other-

wise stated. The reports are in continuation of Y.B., Mich., 16 Edw. III., No. 24 (pp. 344-349). The record is among the *Placita de Banco* of that Term, R^o. 190. The

action was brought by Robert de Hakebeche against Saier de Rycheford in respect of the wardship of

Thomas son and heir of Richard Fitz John.

⁷ The words de Garde are omitted from I.

⁸ H., Holbeche; I., Hollebeche.

The tenements in respect of which wardship was claimed were alleged by the defendant to be in Holbeach (Lincolnshire).

No. 24.

A.D. 1346. held one acre of land of him by knight service, and said that a composition was made between him and J. to the effect that, by reason of the smallness of the tenements held of them, the infant should live with one J. for a certain time, and with the defendant for another time; and he said that the infant was living with him, in accordance with the composition, at the time at which the plaintiff supposed the ravishment to have been effected; and he said that the plaintiff had previously married the infant, and so had received the profit of his purchase; and he demanded judgment whether the plaintiff ought now to maintain this writ against him.—*Pole.* And we demand judgment, since you have confessed that the infant's ancestor held of J. whose estate we have, and you do not affirm any right of wardship in you; therefore it does not lie in your mouth to plead such matter. And, even if it should lie in your mouth to plead that, it seems to us that, although the infant was married by us, and his wife is married to him, he will be in our wardship, and therefore our action to recover the wardship can be maintained.—*WILLOUGHBY.* If a writ of Ravishment is brought against an infant's father by reason of land which the mother's ancestor held, he may well allege that the marriage does not belong to the plaintiff, because the infant is his son, and will have an inheritance from him, without affirming any right in himself; and for the same reason, since you are a purchaser, and that in respect of the marriage, and you have received the profit of the marriage, and they have tendered an averment to that effect, and you have not denied it, the COURT doth therefore adjudge that you take nothing by your writ, &c.

No. 24.

une acre de terre de luy par service de chivaler, A.D. 1346.
 et dit qe composition se prist entre luy et J. qe
 pur la petitesse des tenementz de eux tenuz qe
 lenfaunt demureit ove un J. un certain temps, et od
 le defendant un autre temps; et dit qe lenfant
 demura od luy, solonc la composition, a mesme le
 temps qe il ad suppose le ravissemant; et dit qe de
 temps avant le plaintif avoit marie lenfant, et issi
 ad eu le profit de son purchas; et demanda jugement
 si a ore vers luy il duist ceste brief meyntenir.¹—
Pole. Et nous demandoions jugement, puis qe vous
 avetz conu qe launcestre lenfant tint de J. qj estat
 nous avoms, et vous naffermez pas dreit de la garde
 en vous; par quei en vostre bouche ne gist il pas
 de tiele chose² pleder. Et, mes qil girroit, il nous
 semble qe, comment qe lenfant fust par nous marie,
 et sa femme soit marie, qil serra en nostre garde,
 par quei nostre accion a recoverir la garde est meyntenable.—*WILBY.* Si le brief de Ravissemant soit
 porte vers le pere lenfant par resoun de terre qe
 launcestre la mere tint, il alleggera bien qe le mariage
 nattient pas al plaintif pur ceo qe il est soun fitz et
 serra enherite par luy saunz affermer en luy dreit;
 et par mesme le resoun, puis qe vous estes
 purchaceour, et ceo del mariage, et le profit de ceo
 vous avetz eu, quele chose ils ouint tendu dayerer,
 et vous ne lavetz pas dedit, par quei la COURT agarde
 qe vous ne preignez rienz par vostre brief, &c.³

¹ For the record of the plea, see Y.B., Mich., 16 Edw. III., p. 347, note 6.
² chose is omitted from H.

³ For the record of the conclusion of the case, see Y.B., Mich., 16 Edw. III., p. 349, note 10.

No. 24.

A.D. 1346. § Conclusion of the plea between Robert de Hakebeche and Saier de Rycheforde.—*Grene*. You have plainly heard how he has claimed this wardship by reason of purchase, and he complains of a ravishment, to which we have said that he married the infant to his own daughter, and so he has had the full benefit of his purchase; for neither his purchase nor his present demand is of anything else than the marriage; and with respect to that he has been satisfied, and this he has not denied, and therefore we demand judgment, &c.—*Pole*. You see that he is a stranger, and does not claim anything in the wardship of the body, and does not say that the wardship does not belong to us, and he does not affirm any right in his own person by reason of which he ought to have the marriage; and his statement that the infant was married by us does not lie in the mouth of anyone except in the mouth of the infant, to whose damage it would be to have been previously married in case we should tender him a marriage, and it would not be to the damage of anyone else; therefore we do not understand, since he has allowed that the wardship belongs to us, that this plea lies in his mouth.—*Birton*. And if you bring a writ of Ravishment of Ward against me, and recover the value of the marriage against me, if the infant be at the same time married, and his wife dies afterwards, you will never again have a writ of Ravishment against me, because you have had the full benefit of that which you demand; so also in this case, since the infant was married by you, you have had the full benefit of your purchase.—*WILLOUGHBY*. You do not demand by this writ anything but the value of the marriage, and he has said that with regard to that you have been

No. 24.

§ *Residuum¹ placiti inter Robertum de Hakebeche A.D. 1346. et Saerum de Rychesforde.²—Grene.* Vous avietz bien entendu coment il ad clame ceste garde par resoun de purchace, et se plaint dun ravisement, ou nous avoms dit qil maria lenfant a sa fille demene, issint *Residuum placiti inter Robertum de [Hakebeche] et Saerum de Rychesforde.³* ad il leffecte de soun purchace; qar soun purchace³ ne sa demande nest rienz autre fors le mariage, et ceo est il servy, et ceo nad il pas dedit, par quei nous demandoms jugement, &c.—*Pole.* Vous veietz coment il est estrange, et rienz ne cleyme en la garde de corps, et ne dit mye qe la garde nattient a nous, et il nafferme nulle dreit en sa personne par quei il duist aver le mariage; et ceo qil parle qe lenfant fuit marie par nous ceo ne git pas en nully bouche fors en bouche lenfaunt, en qi damage ceo serreit destre⁴ autrefoith marie en cas qe nous luy tendimes mariage, et en nully autri damage; par quei nentendoms mie qe ceo ple, de puis qil ad graunte qe la garde attient a nous, en sa bouche gise. — *Birtone.* Et si un homme porte brief de Ravisement de Garde vers moi, et recouvre la value del mariage vers moi, si lenfant soit marie a mesme ceo temps, et sa femme devie puis, jammes naveretz autrefoith brief de Ravisement vers moi, pur ceo qe vous avietz leffecte qe vous demandez; auxi ici, quant lenfaunt fuit marie par vous, vous avietz leffecte de vostre purchace. — *WILBY.* Vous ne demandez pas par cest brief forqe la value del mariage, et il ad dit qe de ceo vous estes servy;

¹ This report of the case is from L. and C.

² MSS. of Y.B., Rocheforde.

³ The words qar soun purchace are omitted from L.

⁴ L., demande.

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A.D. 1346. satisfied ; and, if the infant were a party to you, he would bar you of an action of Forfeiture of Marriage, because you have married him, and for the same reason so will he do who now pleads. And, since you do not deny that you married him, in which case you have had the full benefit of that which you demand, and particularly where you are a purchaser, so that the infant is out of wardship now that he is married, and you have not denied that he was married by you, and so you have been satisfied with respect to your demand, this Court doth adjudge that you do take nothing by your writ, &c.

Formedon. (25.) § A writ of Formedon was brought against Richard, son of John Smyth, who vouched to warrant one J., son and heir of A., who was under age, and (said Counsel for the tenant) we pray that the parol do demur until his full age.—*Richemunde.* Whereas you vouch him as heir of A. and attempt to put the parol without day by reason of his non-age, we tell you that J. is a bastard ; judgment whether you shall be admitted to vouch him.—*Skipwith.* We do not confess that, but we tell you that he has entered upon the inheritance since the death of A., as son and heir, and we demand judgment whether you shall be admitted to allege bastardy in him.—*Seton.* You ought never to delay me of my action except by reason of the non-age of the person who is heir, and, since we have disproved that by the bastardy alleged in his person, which you do not deny, judgment whether, &c.—*Skipwith.* If J. were of full age, and I were to bind him to warranty by A.'s deed, as A.'s heir, and if he wished to say that he was a bastard, I should say that he could not be admitted to do that, because he is in possession as heir, and for the same reason with regard to you I shall have the voucher as of the heir on the

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et, si l'enfant fuit partie a vous, il vous barreit A.D. 1346.
daccion de Forfeture, pur ceo qe vous luy avietz
marie, et par mesme la resoun celuy qore plede.
Et de puis qe vous ne deditetz mye qe vous ne
luy mariastes, en quel cas vous avietz leffete
demande, et nomement la ou vous estes purchaceour,
issint l'enfant hors de garde meintenant¹ quant il
est marie, et vous navetz pas dedit qil ne fuit
marie par vous, issint estes servy de vostre demande,
ceste COURT agarde qe vous ne preignetz rienz par
vostre brief, &c.

(25.)² § Forme de doun porte vers Richard le fitz ^{Forme-}
^{doun.} Johan Smyth, qe voucha a garrant un J. fitz et [Fitz.,
heir A., qest deins age, et prioms qe la paroule ^{Voucher,}
demurge, &c. — *Rich.* La ou vous luy vouchez
come heir A., et estes a mettre la paroule saunz
jour par son nounage, la dioms nous qe J. est
bastard; jugement si a luy voucher serrez resceu.—
Skip. Nous conissons pas cele, mes nous vous
dioms qil est entre apres la mort A. en leritage,³
come fitz et heir, et demandons jugement si
dallegger bastardie en luy serretz resceu.—*Setone.*⁴
Vous ne deivetz moy jammes declairer de ma accion
sil ne soit par le nounage celuy qest heir, et, puis
qe nous avons desprove cele par la bastardie en luy
allegge, quelle chose vous ne dedites pas, jugement
si, &c.—*Skip.* Si J. fust de plein age, et jeo luy
liasse a la garrantie par le fait A. come heir a luy, sil
vousist dire qil fut bastard, jeo dirrai qil navendra pas
pur ceo qe il est einz come heir, et par mesme la
resoun vers vous jeo averay le voucher come de heir

¹ L., nomement.² From H., and I., until other-
wise stated.³ I., le heritage.⁴ I., STON.

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A.D. 1346. possession which is not denied by you. — *Grene*. That case is not like our matter, for the bastard himself can never say that he is a bastard, because he has taken the profits of the land as heir; but we, who are a stranger to him, are not debarred by his possession from alleging bastardy in his person; for if we had said that he was not A.'s heir, that would not constitute an issue, unless we answered whether he was A.'s son or not; therefore, since we have now said that he is a bastard, and therefore neither A.'s son nor A.'s heir, that is sufficient, for if we are not permitted to allege that he is a bastard, and we counterplead the voucher according to the form of the statute,¹ that is to say, that neither he who is vouched nor any of his ancestors ever had anything, &c., by that counterplea we shall confess that he has an ancestor; and shall thereby be ousted for ever from bastardising him; therefore we must have that counterplea of bastardy now.— *WILLOUGHBY*. Law and right are to the effect that he should have his voucher, and, if he were to vouch the mulier, he would not have anything to the value, because the bastard is seised of the whole; and it is not for a stranger to acknowledge bastardy, but to vouch as heir the person who is in possession of the inheritance as heir; therefore, since it is not for him to acknowledge any other to be heir but the person who is seised, the voucher with regard to him is permissible; therefore, if you have nothing else to say, we shall allow the voucher.

Formedon. § A man brought a writ of Formedon in the descender against a woman, and the woman said, by *Skipwith*, that she held the tenements in dower by endowment of one J., her husband, the reversion being regardant to one T., son and heir of the same J.,

¹ 3 Edw. I. (Westm. 1), c. 40.

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de la possession quele nest pas dedit de vous.— A.D. 1346.

Grene. Nent semblable a nostre matere, qar le bastard mesme ne dirra pas qil est bastard, pur ceo qil ad pris les profitz de la terre come heir; mes nous, qe sumes estraunge a luy, ne sumes pas forclos par son mainoevre dallegger bastardie en luy; qar si nous ussoms dit qil ne fut leir A. il ne serreit pas issue saunz resondre le quel il fut son fitz¹ ou nent; par quei, puis qe nous avoms ore dit qil est bastard [et par taunt nent son fitz ne son heir, ceo suffit, qar si nous naveromis dallegger qil est bastard],² et nous countrepleoms le voucher par forme destatut, saver, qe celuy qest vouche ne nul de ses auncestres³ navoient unques rienz, &c., par cel countreplee nous conustumus qil ad auncestre, et par taunt serroms oustez pur touz jour de luy bastarder; par quei il covent qe nous leioms a ore.— *WILBY.* Leie et resoun voet qil eit son voucher, et, sil vouchast le muliere, il naveroit rienz a la value, pur ceo qe le bastard est seisi de tut⁴; et a luy qest estrange nest a conustre, mes celuy qest eins en leritage⁵ come heir de luy voucher come heir; par quei, puis qil nest pas a lui⁶ a conustre autre estre heir forqe luy qest seisi, le voucher vers luy est suffrable; par quei si vous neietz autre chose a dire nous granteroms le voucher.

§ Un⁷ homme porta un brief de Fourme de douz Fourme-
en descendre vers une femme, et la femme dit douz
par *Skip.* qele tient les tenementz en dowere
del dowement un J., soun baroun, la reversion
regardant a un T. fitz et heire mesme celuy,

¹ H., fitz.

² The words between brackets are omitted from I.

³ I., heirs.

⁴ I., terre.

⁵ I., le heritage.

⁶ The words a lui are omitted from I.

⁷ This report of the case is from L., and C.

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A.D. 1346. and in respect of such an estate she vouched him to warrant. And, said *Skipwith*, he is under age, and we pray that the parol do demur until his full age.—*Richemunde*. Whereas he vouches T., son and heir of J., we tell you that he ought not to be admitted to such a voucher, for we tell you that T. is a bastard, and we demand judgment, &c.—*Skipwith*. He does not counterplead our voucher by common law, or by statute, wherefore, &c. And if the person whom we have vouched were of full age, that would be no counterplea, for we might be able to bind him for another cause when he appears, and so we may in this case, and therefore it is not right to give the defendant this counterplea.—*WILLOUGHBY*. You have vouched T. as being under age, and as heir, so that, if the defendant had not this counterplea, it would be a great mischief for him, because the parol would then demur until T.'s full age, which would be contrary to what is right if he is a bastard, as the defendant has said; and we understand that the cause for which he is vouched is that he is heir, and that cause the defendant has disproved, and therefore it seems that the counterplea is sufficiently good, &c.—*Skipwith*. We tell you that the person whom we have vouched has entered upon the inheritance after the death of J., his father, and is seised as heir, and therefore we cannot vouch any one but him in order to have to the value, and therefore we demand judgment, and pray our voucher.—*Grene*. He has said that the person whom you vouch as heir is a bastard, and even though the mulier may have permitted the bastard to enter upon the inheritance, it is not for that reason right, with regard to us, that he should put us to delay by his permission, for the mulier can oust the bastard at his pleasure, and, therefore, although he says that T. is seised of the inheritance,

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et de tiel estat luy voucha a garraunt, qest deinz A.D. 1346.
 age, et prioms qe la parole demurge tanta soun
 age.—*Rich.* La ou il vouche T. fitz et heir J.,
 nous vous dioms qa tiel voucher il ne deit estre
 resceu, qar nous vous dioms qil est bastarde, et
 demandoms jugement, &c.—*Skip.* Il ne contrepode
 pas nostre voucher par commune ley, ne par statut,
 par quei, &c. Et, sil fuit de plein age, celuy qe
 nous avoms vouche, ceo ne serreit mie countreplee,
 qar nous luy poms¹ lier² par autre cause quant il
 vendra, et issint poms en ceo cas, et pur ceo il nest
 pas resoun de luy doner ceo countreplee.—*Wilby.*
 Vous luy avietz vouche comme deinz age, et comme
 heire, issint qe sil nust ceo countreplee il serreit
 grand meschief pur ly, qar donques demureit³ la
 paroule tanta soun age, qe serreit contre resoun
 sil soit bastarde comme il ad dit; et nous entendoms
 qil est est vouche par cause qil est heire, et cele
 cause ad il desprove, par quei il semble qe countre-
 plee est assetz bone, &c.—*Skip.* Nous vous dioms qe
 celuy qe⁴ nous avoms vouche si est entre en
 leritage apres la mort J. soun pere, et seisi est
 comme heire, par quei autre qe celuy nous ne poms
 voucher daver en value, par quei nous demandomis
 jugement, et prioms nostre voucher.—*Grene.* Il ad
 dit qe celuy qe⁴ vous vouchez⁵ comme heire est
 bastarde, et, tut eit le mulure soeffert le⁶ bastarde
 entrere en leritage, par tant nest il pas resoun, devers
 nous, qil nous mette en delaye par sa soeffraunce,
 qar il luy poet ouster a sa volonte; par quei, tut
 die il qil soit seisi del heritage, et come heire,

¹ L., avoms.² L., lie.³ L., demurreit.⁴ L., qe.⁵ C., avietz vouche.⁶ le is omitted from L.

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A.D. 1346. and that as heir, yet since he does not deny that T. is a bastard, it is not right that the tenant should have voucher of T. so as to delay us until his full age.—HILLARY. If he has entered upon the inheritance, and is seised, the tenant cannot have to the value otherwise than against him, so that her voucher is properly given against him, and against no other.—R. Thorpe. If an elder son, who is of full age, permits a younger son, who is under age, to enter upon the inheritance, I say that, if anyone vouches the younger, and prays that the parol may demur until his full age, the defendant will not have a good counterplea, on the ground of the delay, to say that he has an elder brother living, and I say that the elder brother will never put me to delay by permitting the entry of the younger; no more in this case.—WILLOUGHBY. In the case which you put the younger brother cannot be heir to the ancestor by continuance in possession when he has an elder brother; but the bastard by continuance in possession can be heir, so that the voucher of him is good when he is seised of the inheritance; and you will never compel the tenant to vouch anyone against whom she cannot have anything to the value; therefore her voucher, on the matter which she has shown, must be maintained against the person who is in possession of the inheritance, even though he be a bastard; and, therefore, unless you will say something else, we will allow her the voucher for anything that you have yet said.—And afterwards the parties took a day by *Prece partium*, &c.

Scire facias.

(26.) § A *Scire facias* was sued against one J. de R., chaplain of a chantry in the church of A., upon a fine of certain land.—Grene said that he found the chantry seised of the same land, and that he had the chantry by collation from the Prior

No. 26.

de puis qil ne dedit pas qil est bastarde, il nest A.D. 1346.
 mie resoun qil eit voucher de luy, de nous delaier
 tanqe a soun age.—HILL. Sil soit entre en leritage,
 et seisi, ele ne poet aver en value forqe devers luy,
 issint qe proprement soun voucher si est done
 devers luy et devers nulle autre.—R. Thorpe. Si
 leigne, qest de pleine age, soeffre le puisne, qest
 deinz age, entrere en leritage, jeo die qe, sil vouche
 le puisne et qe la parole demurge, &c., n'avaera pas
 bone countreplee pur le delaie a dire qil ad un
 eigne frere en vie, et par sa soefraunce il ne moy
 mettra jammes en delaye; nient plus en ceo cas.—
 WILBY. En le cas qe vous mettetz il ne poet pas
 estre heire al auncestre par continuaunce la ou il
 ad eigne frere¹; mes le bastarde par continuaunce
 poet estre heire, issint qe de luy le voucher est
 bon² quant il est seisi del heritage; et vous ne luy
 chaceretz jammes de voucher celuy vers qi ele ne
 poet aver rienz en value; par quei soun voucher, sur
 la matere quele ele ad moustre, covient estre
 meintenu vers celuy qest einz en leritage, tut soit
 il bastarde; par quei, si vous ne voletz autre chose
 dire, nous voloms graunter a luy le voucher pur
 rienz qe vous avetz dit unqore.—Et puis les parties
 pristrent jour par *Prece partium, et cetera.*

(26.)³ § *Scire facias* suy vers un J. de R., chapeleyn *Scire facias.*
 dune chauntérie en leglise de A., hors dune fync de [Fitz.,
 certeyne terre.—Grene dit qil trova la chaunterie seisi *Aide*, 30.]
 de mesme la terre, quel chaunterie⁴ il ad de la collacion

¹ L., friere. .
² L., done.

³ From H., and I.
⁴ I., terre.

Nos. 27, 28.

A.D. 1346. of Bolton, and he prayed aid of the Prior as patron, and of the Archbishop of York as Ordinary.—*Huse*. He ought not to have aid, for the object of our suit is to defeat his name (of chaplain), and all that he has by reason of the chantry; therefore, &c.—SHARSHULLE. That is not a cause for ousting him from the aid; therefore let him have the aid.

Annuity. (27.) § An annuity was recovered. The plaintiff sued a *Fieri facias*. The Sheriff returned that the defendant had nothing, &c. The plaintiff prayed an *Elegit*. And, because he had elected to have a *Fieri facias*, he could not have an *Elegit*. Therefore he had an *Alias Fieri facias*. And the plaintiff said that one term of the annuity had passed since the issue of the *Fieri facias*, and prayed an *Elegit* in respect of that term. And he had it.

Formedon. (28.) § A Formedon in the descender was brought in respect of a manor.—*Thorpe*. We do not admit the gift, but we say that this same J. to whom you have supposed the gift to have been made was seised of two acres of land as parcel of the same manor, and gave the two acres of land to one R., which R. is, this day, seised of the two acres, and so was on the day on which the writ was purchased, and he is not named in the writ; judgment, &c.—*Derworthy*. We say that you are fully tenant of the manor, in demesne as in demesne, in service as in service, and in alms as in alms; ready, &c.—*Thorpe*. And, since we have alleged that the person to whom he supposes that the gift was made was seised of the two acres as parcel of the manor, and gave them to R., who was seised on the day on which the writ was purchased, and so is, this day, and the issue which the defendant tenders is not in contradiction of the estate which we have affirmed

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le Priour de Boltone, et pria eide del Priour come de A.D. 1346.
patroun, et del Ercevesqe¹ de E. come Ordiner.—*Huse.*
Eide ne deit il aver, qar par nostre sute nous sumes
a defaire son noun, et quant qil ad par resoun de la
Chaunterye; par quei, &c.—*SCHARS.* Ceo nest pas
cause de luy ouster del eide; par quei eit leide.

(27.)² § Une annuyte fust recoveri. Le plaintif *Annuite*.
suyst le *Fieri facias*. Le Vicounte retourna qil
navoit rienz, &c. Le plaintif pria le *Elegit*. Et, pur
ceo qe il avoit eslu le *Fieri facias*, il ne poait mye
aver le *Elegit*. Par quei il avoit *Sicut alias*. Et le
plaintif dit qun terme del annuite fust passe puis le
Fieri facias, et pria de cel terme le *Elegit*. Et lavoit.

(28.)³ § Forme de doun en descender porte dun Forme de doun.
maner.—*Thorpe.* Nous ne conissons pas le doun,
mes nous dioms qe mesme celuy J. a qि vous avezt [Fitz..
Mainten-
auns de
Briefe, 10.]
suppose le doun estre fait fust seisi de ij. acres de terre come parcelle de mesme le maner,⁴ et dona les
ij. acres de terre a⁴ un R. [le quel R. est huy ceo
jour seisi de les ij. acres, et fust le jour de brief
purchase],⁵ nent nome en le brief; jugement, &c.—
Der. Nous diomis qe vous estes pleinement tenant
del maner, en demene come en demene, et en service
come en service, en almoigne come en almoigne⁶;
prest, &c.—*Thorpe.* Et de puis qe nous avons allegge
qe celuy qil suppose a qि le doun se fist fust seisi
de les ij. acres come parcelle del maner, et les dona
a R., qe seisi fust le jour de brief purchase, et huy
ceo jour est, et lissue quel il tende nest pas a
contrare lestat quel nous avons afferme en R.,

¹ I., *Evesqe.*

² From H., and I.

³ H., purchase.

⁴ H., enfessa, instead of dona les
ij. acres de terre a.

⁵ The words between brackets
are omitted from H.

⁶ The words come en almoigne
are omitted from I.

No. 28.

A.D. 1346. in R., because he does not tender the averment that R. had nothing, and so his replication is of no avail in support of his writ, we demand judgment.—*SHARSHULLE, ad idem.* He has alleged non-tenure of parcel of the manor held by R., and you tender the averment that the tenant is fully tenant of the manor in demesne and in service, &c., but that may be consistent with what he has said; for if tenant in tail had aliened a part of the manor to R. for his life, to hold of him by a certain rent, and had afterwards aliened the manor to you, you are in that case fully tenant of the manor in demesne and in service, and yet, according to the opinion of some, the non-tenure of parcel will abate the writ. Therefore, if you will admit the matter to be such, and will abide judgment on the question whether the writ is good or bad, it is well; and, if you will not do that, there must be an averment on your part traversing R.'s estate, or else you must confess it to be such as has been stated, and abide judgment on the point; therefore deliver yourself as to where you wish to be.—*Derworthy.* We say that he is fully tenant of the manor, *absque hoc* that R. holds anything by gift from J.; ready, &c.—*Thorpe.* Even though R. does not now hold anything by conveyance from J., yet if he had anything at one time, and divested himself, and afterwards took an estate, we understand that the non-tenure will abate your writ.—*WILLOUGHBY, ad idem.* Whether R. has the two acres by gift from J. or not is not of the substance of the matter, for, if you cannot maintain that the tenant is as fully tenant of the manor as the manor was in J.'s seisin, you do not maintain your writ; therefore, will you maintain it or not?—*Derworthy.* We say that he is fully tenant of the manor, *absque hoc* that R. has anything; ready, &c.—*Thorpe.* Ready, &c., that R. was seised of the two acres on the day on which the writ was purchased.—And so to the country.

No. 28.

qar il ne tende pas daverer qe R. nad rienz, et issi A.D. 1346.
sa replicacion ne sert pas son brief, jugement.—

SCHARS., *ad idem*. Il ad allegge nountenure de
parcellle del maner en R., et vous tendez daverer qil
est pleinement tenant del maner en demene et en
service, &c., quele chose purra esteer od ceo qil ad
dit; qar si tenant en la taille ust alienne parcellle
del maner a R. a sa vie, a tenir de luy par
certeine rente, et puis il ust alienne le maner a vous,
vous estes en cel cas pleinement tenant del maner
en demene et en service, et unqore, al entente
dasquuns, la nountenure de la parcellle abatera le
brief. Par quei, si vous voilletz conustre la matere
tiele, et demurer en jugement le quel le brief soit¹
bon ou nient, bien est; et, si ceo noun, il covent
qe laverement de vostre part del estat R., ou qe vous
le conussetz tiel come est parle, et demurer sur le
point en jugement; par quei deliveretz vous ou
vous voilletz estre. — *Der.* Nous dioms qil est
pleinement tenant del maner, saunz ceo qe R. tient
rienz du doun J.; prest, &c.—*Thorpe.* Mesqe R. ne
tient rienz a ore del lees J., sil les avoit a un
temps, et se demist, et a drein prist estat, unqore
entondonis qe la nountenure abatera vostre brief.—
WILBY, *ad idem*. Le quel qe R. eit les ij. acres de
doun J. ou nent, ceo nest pas de² la substaunce de
la matere, qar, si vous ne poetz maintenir qil soit
auxi pleinement tenant del maner come ceo fust en
la seisin J., vous ne maintenez³ pas vostre brief;
par quei volez ceo meintenir ou nient?—*Der.* Nous
dioms qil est pleinement tenant del maner, saunz ceo
qe R. rienz ad; prest, &c.—*Thorpe.* Qe R. fuist
seisi de les ij. acrés jour de brief purchace, prest,
&c.—*Et sic ad patriam.*

¹ I., est.² H., a.³ I., meytiendrez.

No. 29.

A.D. 1346. (29.) § A writ was brought against a man and *Præcipe*. "Celota"¹ his wife.—*Mutlow*. We say that the right name of the wife is Cecilia, and not Celota; judgment of the writ.—*Moubray*. As to that we tell you that her name is Celota, and by such name she is known; ready to verify.—*Mutlow*. If you will aver that her name is Celota, ready, &c., that it is not. And, if you will aver that she is known by the name of Celota, we demand judgment whether you shall be admitted to such an averment, since you do not deny that her right name is Cecilia.—*Moubray*. Then you refuse the averment which we have tendered; and we demand judgment, since you say nothing else in answer to our action, and we pray seisin of the land.—WILLOUGHBY. Will you accept the averment which *Moubray* has tendered you?—*Mutlow*. Sir, if he wishes the averment to be that her right name is Celota, ready, &c., that it is not. And if he wishes to waive that, and to aver that she is known by such a name, we will refuse that averment, since he does not deny that her right name is Cecilia. And if on the averment which he tenders you adjudge his writ good, I shall be ready to answer.—WILLOUGHBY. Rest assured that we shall record that you have refused the averment, and, in case we adjudge that you have wrongly refused it, you will lose your land; for it is not the same thing with regard to an averment refused on a plea which goes to the abatement of a writ as it is with other pleas which do not fall under the head of fact. Therefore do you (the clerks) whose business

¹ See p. 559, note 1.

No. 29.

(29.)¹ § Brief porte vers un homiie et Sibote sa A.D. 1346.
 femme.—*Mutl.* Nous dioms qe le dreit noun la *Præcipe*.
 femme est Cecile et ne mye Sibote; jugement du [Fitz.,
 brief.²—*Moubray.* A ceo vous dioms qe son noun est *Mia-*
Sibote et par tiel noun conu; prest daverer.³—*Mutl.*
 Si vous volez averer qe son noun est Sibote, prest,
 &c., qe noun. Et si volez averer qele est conu par
 noun de Sibote, nous demandons jugement si a tiel
 averement serrez resceu, puis qe vous ne deditez
 pas qe son dreit noun est Cecile.—*Moubray.* Donqes
 vous refusez laverement quel nous avons tendu; et
 demandons jugement, puis qe autre rienz ne ditez
 a nostre accion, et prioms seisine de terre.—*WILBY.*
 Volez laverement qe *Moubray* vous ad tendu?—
Mutl. Sire, sil voet laverement qe son dreit noun
 est Sibote, prest, &c., qe noun. Et sil voet weyver
 cel, et averer qele est conu par tiel noun, nous
 voloms cel averement refuser, puis qil ne dedit pas
 qe soun dreit noun est Cecile. Et si par laverement
 quel il tende vous agarderez sou brief bon, prest
 serroi a respondre.—*WILBY.* Soietz seure qe nous
 recordrons qe vous avetz refuse laverement, et en
 cas qe nous agarderons qe vous avetz malement
 refuse, vous perdrez vostre terre; qar il nest pas
 un sur un averement refuse dun plee qe chiet
 en abatement de brief et des autres plees qe ne
 chessent pas en fait. Par quei vous qe avetz la

¹ From H., and I., but corrected by the record, *Placita de Banco*, Trin., 20 Edw. III., R^o 178. It there appears that a *Cui in vita* was brought by Margaret late wife of Peter de Rydeware, of Coventry, "versus Celotam quæ fuit uxor Walteri Chilbeke," in respect of 2s. of rent in Coventry.

² The plea was, according to the record, "Celota venit in propria persona sua. Et petit judicium

"de brevi. Et, ubi prædicta Margareta facit ipsam nominari Celotam in brevi sua, dicit quod rectum nomen ejus est Cecilia, et non Celota, et hoc parata est verificare, &c., unde petit judicium, &c."

³ The replication was, according to the record, "Margareta dicit quod rectum nomen ejus est Celota, et non Cecilia, et per nomen Celotæ cognita est."

No. 30.

A.D. 1346. it is enter the plea, and we will consider our judgment on the averment refused, &c.

Recordari. (30.) § A writ of Right patent was brought by one Isabel, daughter of Thomas Balle, directed to the bailiffs of Hereford, of Isabel, Queen of England. The tenant made his suggestion in the Chancery that one J., bailiff of the court, put compulsion on the plaintiff in order to have part of the same land, after she had recovered it, and had a *Recordari* directed to the Sheriff for that cause. The Sheriff now returned the writ, and also the parol which was there pending, and in the return he recited the whole writ. The woman appeared, and accepted the alleged cause for the removal of the parol, and said, by *Sadelyngstances*, that she had made, in the court of Hereford, her protestation that her suit was in the nature of a Mort d'Ancestor, and that she was still ready to maintain that protestation, and prayed the assise.—*Skipurith*. You will not find any protestation returned by the Sheriff, in which case we understand that, if any protestation was made there, she could not make it here; and because this is a writ of Right, and she is in Court, and will not count against us, we demand judgment.—WILLOUGHBY. You talk confusedly about your protestation, for this writ which is returned is not a writ of Right in the form "*quod plenum rectum teneatis secundum consuetudinem manerii*," but is a writ of Right patent, which will always remain with the plaintiff; therefore without that writ we cannot put

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bosoigne, entrez le plee, et nous aviseroms del A.D. 1346.
jugement sur laverement refuse, &c.¹

(30.)² § Un brief de Dreit patent fut porte par *Recordari*.
une Isabelle, la fille Thomas Balle, directe a les *Droite*,
baillifs Isabelle reigne de Herford. Le <sup>[Fitz.,
17.]</sup> tenant fist sa suggestion en la Chauncellerie qun J.,
baillif de la Court, fouet le plaintif pur part aver de
mesme la terre, apres qele³ leit recoveri, et avoit un
Recordari al Vicounte sur cele cause. Le Vicounte
a ore retourna le brief, et auxi la parole⁴ qe fut
illoeques pendaunt, et en le retourne il rehercea tut
le brief. La femme vient et accepta la cause del
remuement, et dit par *Sadel*. qele avoit fait en la
court de Herford sa protestacion [a suire en nature
de Mort dauncestre, et est unqore prest a meintener]⁵
cele⁶ protestacion, et pria lassise.— *Skip*. Vous ne
troverez nulle protestacion retourne par le Vicounte,
en quel cas nous entendoms qe si nulle protestacion
fust illoeques fait qe ele ne le freit pas icy; et pur
ceo qe cest un brief de Dreit, et ele est en Court,
et ne voet pas counter vers nous, nous demandons
jugement.— *WILBY*. Vous parlez en tourment de
vostre protestacion, qar cest brief qest retourne nest
pas un brief de Dreit *quod plenum rectum teneatis*
secundum consuetudinem manerii, mes est un brief de
Dreit patent, quel brief demura touz jours od le
plaintif; par quei saunz cel brief nous ne poms

¹ According to the record issue was joined upon the replication (as at p. 559, note 3), and the *Venire* was awarded. There were afterwards several adjournments, but nothing further appears on the roll.

There follows on the roll another *Cui in vita*, brought by the same defendant against Laurence de Northfolk, of Coventry, and Celota his wife, in respect of a mill in

Coventry. The pleadings are, *mutatis mutandis*, the same. The case ends with the award of the *Venire*.

² From H., and I.

³ I., qeil.

⁴ I., le plee, instead of la parole.

⁵ The words between brackets are omitted from I.

⁶ I., sa.

No. 31.

A.D. 1346. the tenant to answer.—Therefore WILLORCHBY asked the plaintiff where that writ was. And because the plaintiff had it not ready in Court, and the tenant prayed his deliverance, judgment was given that the tenant should leave the Court without day, and not that the plaintiff and her pledges should be in mercy, because no pledges to the King's officer were found, nor to prosecute the cause in the King's Court.

Cosinage. (31.) § A writ of Cosinage was brought, and the defendant¹ made the resort from one A.,¹ because he died without heir of his body, to the defendant himself by mesne degrees.¹—*Gaynesford*. We tell you that we are the son of this same A.,¹ and are in possession of the land as his heir, and we demand judgment whether you can maintain this writ against us.—*Derwurthy*. You ought not to be admitted to say that you are son and heir of A.; for we say that you

¹ For the names, see p. 563, notes 1 and 2.

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mettre le tenant a respondre.—Par quei il demanda A.D. 1346.
del pleintif ou cel brief fut. Et pur ceo qe le
pleintif nel avoit prest en Court, et le tenant pria
sa deliveraunce, fust agarde qe le tenant alast a
Dieu saunz jour, et ne mye qe luy et ses plegges
furent en la mercy, pur ceo qe nuls plegges furent
trovez a ministre le Roi, ne a pursuire en sa
Court, &c.

(31.)¹ § Un brief de Cosinage fut porte, et fist le Cosinage.
resort dun A., pur ceo qil murust saunz heir de
son corps, a lui par degrees menes.²—*Gayn*. Nous
dioms qe nous sumes le fitz mesme celi A. et einz
sumes en la terre come son heir, et demandoms
jugement si cest brief vers moy poetz meyntener.³
—*Dér.* A dire qe vous estes fitz et heir A. ne
devetz avenir; qar nous dioms qe vous nasquites

¹ From H., and I., but corrected by the record, *Placita de Banco*. Trin., 20 Edw. III., R^o 100, d. It there appears that the action was brought by John Joulyn, of Bodmin, against John Bounteth, in respect of one messuage and a third part of two acres of land in Trewane (Cornwall), and against Richard de Sancta Electa, chaplain, in respect of one messuage and a moiety of one acre of land in Trevenian, “de quibus Ricardus Bounteth consanguineus praedicti Johannis Joulyn, cuius heres ipse est, fuit seisisitus in dominico suo ut de feodo, die quo obiit.”

² The count was, according to the record, “quod praedictus Ricardus consanguineus, &c., fuit seisisitus, et de ipso Ricardo, consanguineo, &c., quia obiit sine herede de se, descendit feodum, &c., cuidam Johanni ut fratri et heredi, &c. Et de ipso Johanne descendit

“feodum, &c., cuidam Ricardo ut filio et heredi, &c., et de ipso Ricardo descendit feodium, &c., isti Johanni Joulyn qui nunc petit ut filio et heredi, &c.”

“John Bounteth’s plea was, according to the record, “quo ad teneimenta versus eum petita dicit quod praedictus Johannes Joulyn nihil juris clamare potest in eisdem tenementis, quia dicit quod, cum idem Johannes per breve et narrationem suam supponit praedictum Ricardum Bounteth de cuius seisina, &c., obiisse sine herede de se, et sic faciendo descensum ei ut heredi, &c., dicit quod ipse est filius ipsius Ricardi Bounteth et heres, et tanquam heres, &c., modo seisisitus est de tenementis praedictis, &c. Et hoc paratus est verificare, &c., unde petit judicium si idem Johannes Joulyn actionem inde habere debeat, &c.”

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A.D. 1346. were born before wedlock, and we demand judgment whether as heir, &c.—*Gaynesford*. Sir, you see plainly that he does not deny that we are the son of A., and he cannot make us a stranger to A. without pleading, with regard to the right, that we are a bastard, and so making us a stranger to the blood of every one; therefore the law does not put us to answer to that which he has said.—*WILLOUGHBY*. Then you refuse the averment which he tenders you, that is to say, that you were born before wedlock; and that issue affects the right just as much as if he had alleged bastardy in you; therefore will you abide judgment thereon?—*Gaynesford*. Yes, and so may God help me, Sir, at all the peril which there may be, since he does not deny that we are the son of A., and we are in tenancy, in which case this cannot be a plea, without alleging that we are fully a bastard; therefore we demand judgment whether, &c.—*WILLOUGHBY*. Let the plea be entered; and we will consider the judgment.

Protection.

(32.) § One who had been outlawed on a writ of Account obtained his charter of pardon, and sued a *Scire facias* to warn the plaintiff, and the plaintiff appeared. And they were at issue between them as to whether the defendant had been the plaintiff's receiver or not. And at *Nisi prius* in the country the person who sued the *Scire facias* made default, and the Justices did not take the inquest. But now, in the Bench, they recorded the default. And now a Protection was produced for the person who sued the *Scire facias*.—

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avant les esposailles, et demandoms jugement si A.D. 1346.
 come heir, &c.¹—*Gayn.* Sire, vous veietz bien il ne
 dedit pas qe nous ne sumes son fitz, et de luy ne
 nous poet il estraunger saunz pleder en le dreit qe
 nous sumes bastard, et issi nous estraunger de
 chesquny sang; par quei a ceo qil ad dit la leye
 ne nous mette pas a respondre.—*WILBY.* Donques
 refusez vous laverement qil vous tende, saver, qe
 vous nasquites avant les esposailles; et cel issue est
 auxi avant en le dreit come sil ust allegge en vous
 bastardie; par quei voletz la demurer?—*Gayn.* Oil,
 si Dieu moy eide, Sire, a peril qe appent, puis qil
 ne dedit pas qe ne sumes soun fitz, et nous sumes
 en tenance, en quel cas ceo ne poet estre ple,
 saunz allegger qe nous sumes pleinement bastard;
 par quei nous demandoms jugement si, &c.—*WILBY.*
 Soit le ple entre; et nous aviseroms del jugement.²

(82.)³ § Celuy qe fut utlage en brief Dacompte
 avoit sa chartre, et suist un garnissement vers le
 pleintif, qe vient. Et entre eux furent a issue sil
 fust son resceivour ou nent. Et al *Nisi prius* en
 pays celuy qe suist le garnissement fist defaut, et
 les Justices ne pristrent pas lenqueste. Mes ore en
 Baunk recorderent la defaut. Et ore une proteccion
 fut mys avant pur celuy qe suist le garnissement.—

¹ The replication was, according to the record, "quod praedictus Johannes Bounteth ut filius et heres praedicti Ricardi consanguinei, &c., ipsum ab actione sua praedicta excludere non debet in hac parte, quia dicit quod idem Johannes nullius heres esse potest quia natus fuit ante sponsalia. Et hoc paratus est verificare, unde petit judicium, &c."

² According to the record there was a rejoinder by John Bounteth,

"quod ipse est filius praedicti Ricardi Bounteth, per medium cuius, &c., et natus infra sponsalia, &c."

Issue was joined upon this, the *Venire* was awarded, and there was a subsequent adjournment.

The other tenant, Richard de Sancta Electa, prayed and had view of the tenements demanded against him. Nothing further is shown, beyond an adjournment.

³ From H., and I., until otherwise stated.

Protec-
cion.
[Fitz.,
Protec-
cion, 84.]

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A.D. 1346. *Grene.* Sir, Protection does not lie, because, when he sued the *Scire facias* upon his charter of pardon, he became in a manner plaintiff, and therefore Protection does not lie. And, moreover, since he has commenced this suit, and afterwards does not prosecute it, the first outlawry remains in its force, because he [is an outlaw] and his charter of pardon loses its force, and therefore Protection for one who is thus out of the law is not allowable.—**HILLARY.** If he had made default on the first day of the garnishment, it would be right that the first outlawry should remain in its force, because he had a day in Court then by the *Scire facias*; but, when on this day, when the *Scire facias* is returned, you came and made your declaration against him on your original writ of Account, and thereupon he was at issue with you, then he had a day on your original writ of Account, and not on the *Scire facias*; and, since he is now a party to you on your original writ of Account, the Protection is allowable for him.—And the parol was put without day, &c.

Account. § A man brought a writ of Account against another, and the defendant was outlawed by process, and afterwards purchased his charter of pardon, and had a *Scire facias* to warn the plaintiff. Thereupon, the plaintiff appeared and counted that the defendant had been his receiver of his moneys, and the other said that he had never been the plaintiff's receiver.—And a *Nisi prius* was granted before **SIR RICHARD DE KELLESHULLE.**—And on the day given the defendant was called and did not appear. Therefore KELLESHULLE recorded the default, and would not take the inquest, but on the day which they had in the Bench he recorded the default which the defendant made in the country.—*Grene.* The charter of pardon was granted to him upon condition that

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Grene. Sire, la proteccioñ ne gist pas, qar, quant il A.D. 1346.
 suist la garnissement hors de sa chartre, il est en
 manere actour, par quei proteccioñ ne gist pas. Et
 auxi, quant il ad comence cele sute, et puis ne le
 pursust, la primere utlagerie demoert en sa force,
 pur ceo qil et sa chartre perde sa force, et par
 tant proteccioñ pur celuy qest issi hors de la lei
 nest pas allowable.—HILL. Sil ust fait defaut al
 primer jour del garnissement il serreit resoun qe la
 primere utlagerie demureit en sa force, pur ceo qil
 ad jour en Court¹ adonqes par le garnissement;
 mes, quant a cel jour del garnissement retourne
 vous venistes et feistes vostre demoustraunce vers²
 luy sur vostre original Dacompte, et sur ceo fust il
 a issue od vous, adonqes avoit il jour sur vostre
 original Dacompte³ et ne mye sur le garnissement;
 et, puis qil est a ore⁴ partie a vous sur vostre
 original Dacompte, la proteccioñ pur luy est allow-
 able.—Et la parole fust mys saunz jour, &c.

§ Un⁵ homme porta un brief Dacompte vers un Accompte. •
 autre, et le defendant fuit utlage par procees, et puis
 purchacea chartre de pardoun, et avoit *Scire facias*
 de garnir le pleintif, ou le pleintif vint, et counta⁶
 qil fuit soun resceyvour de ses deners, et lautre dit
 qil ne fuit unques soun resceivour.—Et *Nisi prius*
 fuit grante devant SIRE RICHARD DE KELL.—Et al
 jour le defendant fuit demande, et ne vint pas. Par
 quei KELL recorda la defaute, et ne voleit mie prendre
 lenqueste, mes al jour qils avoient en Baunk il recorda
 la defaute qe le defendant fit en pays.—*Grene.*
 La chartre luy fuit graunte sur condicion qil

¹ The words en Court are omitted from H.

² I., devers.

³ Dacompte is omitted from I.

⁴ I., ceo.

⁵ This report of the case is from L., and C.

⁶ L., dit.

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A.D. 1346. he should answer to the party, and upon that a *Scire facias* was granted at his suit, and upon that writ we have pleaded, and he made default at *Nisi prius*, and so he is non-suited in his own suit, and so the charter has lost its force, and we pray, for the King, a *Capias utlagatum*.—HILLARY. KELLESHULLE ought to have taken the inquest on his default, for the whole plea was on the original writ of Account, and so, when he made default, KELLESHULLE ought to have taken the inquest.—And one came and produced a Protection for the defendant.—And *Grene* said that it should not be allowed, because this plea is only by the *Scire facias*, on which this plea is held, and now, since he is non-suited on this writ, there is no other course but to award the *Capias* against him, for the first outlawry stands in its force, because the charter of pardon has lost its force through his non-suit, since the charter was granted to him upon condition “*ita quod respondeat parti*,” and that he has not performed, so that the outlawry stands in its force, and the charter cannot be allowed for him.—HILLARY. The jury is now put in respite, so that he is still a party to you, and so we must allow the Protection. And it seems to me that KELLESHULLE ought to have taken the inquest in the country, and then everything would have been saved; but now we must put the jury in respite for want of jurors, and so the defendant is a party in Court, and therefore we will allow the Protection.—And HILLARY put the parol without day.—Observe and Quere.

Dower. (33.) § A writ of Dower was brought against John Darcy, the son, and Elizabeth his wife.—*Seton*. We say that this same person on whose endowment you demand was our father, whose heir we are, and we entered after his death, as heir, and we have always been and still are ready to render dower to

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respondist a la partie, et sur ceo *Scire facias* fuit A.D. 1346. grante a sa suite, et sur cel brief nous avoms plede, et il fist defaute al *Nisi prius*, issint est il nounsuy en sa suite demene, issint ad la chartre¹ perdu sa force, et prioms *Capias* pur le Roi *ad capiendum utlagatum*.—HILL. Il duist aver pris lenqueste par sa defaute, qar tut le plee fuit sur loriginal, issint, quant il fist defaute, il duist aver pris lenqueste.—Et un vint et mist avant proteccion pur le defendant.—Et *Grene* dit qil ne serreit mie allowe, qar ceste plee nest force par le *Scire facias*, sur quel ceste plee est tenu, et ore, quant il est nounsuy en ceo brief, il ad nulle autre mes agarder *Capias* devers luy, qar la primere utlagerie estet en sa force, qar la chartre ad perdu sa force par sa nounsuite, pur ceo qe la chartre luy fuit graunte sur condicion *ita quod respondeat parti*, et ceo nad il pas fait, issint qe lutlagerie estet en sa force, et pur luy la chartre ne poet estre allowe.—HILL. La Jure est ore mys en respite qil est unqore partie a vous, issint qil covient qe nous allowomis la Proteccion. Et il moi semble qil² duist aver pris lenqueste en pays, et donques ust este tut sauve; mes ore il covient qe pur defaute des jurours qe nous mettoms la Jure en respit, issint est il partie en Court, par quei nous voloms allowere la Proteccion.—Et mist la parole sanz jour.—*Vide et quere.*

(33.)³ § Dowere porte vers Johan Darcy, le fitz, et Dowere. Elizabeth sa femme. — *Setone*. Nous dioms qe mesme celui de qi dowement vous demandez fust nostre pere, qi heir nous sumes, et entrames apres sa mort, come heir, et touz jours avoms este prest et unqore sumes de la rendre dowere aytuels

¹ C., le *Capias*, instead of la chartre.

² L., sil.

³ From H., and I., until otherwise stated.

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A.D. 1346. her on condition that she will render to us certain charters (and *Seton* stated in particular what they were) and transcripts of certain fines, which were by the same ancestor, before his death, placed in a bag sealed with his seal, and which, after his death, came into the defendant's keeping.—*Moubray*. See here the sealed bag containing the muniments of which he has spoken, and we pray our dower.—And the tenant received the bag.—Therefore judgment was given that the defendant should recover her dower; but because the tenants came on the first day, and were ready to render dower, &c., the amercement was pardoned.

Dower. § Note that on a writ of Dower the tenant said that the woman, who was defendant, detained from him certain charters which touched his inheritance, and which came into her keeping after the death of his father, and that he had always been ready to render dower to her, and still was, on condition that she would give up his charters to him.—And the woman had the charters all ready in Court, and gave up the charters to him, and he received them.—And judgment was given that the woman should recover her dower against the tenant, but, as to the amercement, because he had come on the first day, and had rendered dower, and had always been ready as above, and so there was no default in him, it was pardoned.—And observe that neither party was amerced, &c.

Trespass. (34.) § A writ of Trespass was brought in respect of corn cut and carried off.—*Seton*. We say that on the same day with regard to which he has counted the land was the freehold of one J., and we came to assist him and cut the corn; judgment whether the plaintiff can assign any tort in our person.—*Thorpe*. You see plainly how he has

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qele nous vodra rendre certeyns chartres, et les noma A.D. 1346.
queux ils furent, et transescriptes de certains fines,
qe furent par mesme launcestre, avant soun moriaunt,
enseales dun bagge souz son seal, et apres sa mort
deviendrent en la garde le demandant. — *Moubray*.
Veetz cy la bagge enseale od les munementz dount
il ad parle, et prioms nostre dowere.—Et le tenant
le resceust.—Par quei agarde fust qele recoverast
soun dowere; mes, pur ceo qe les tenantz vindrent
al primer jour, et furent prest de rendre dowere,
&c., lamercyement fust perdone.

§ *Nota*¹ qen un brief de Dowere le tenant dist qe Dowere.
la femme luy detient certainz chartres qe toucherent
soun heritage, queux devyndreint en sa garde apres
la mort soun pere, et tut temps avoit este prest de
luy rendre dowere, issint qele luy voleit rendre ses
chartres, et unqore est.—Et la femme avoit les
chartres tut prest la, et luy rendi les chartres, et il
les resceut.—Et agarde fuit qe la femme recoverast
soun dowere vers le tenant, mes, quant al amercie-
ment, pur ceo qil est venu al primer jour, et ad
rendu dowere, et tut temps ad este prest *ut supra*,
issint nulle defaut en luy, &c.—*Et ride* qe ne lun
ne autre fuit amercie, &c.

(34.)² § Brief de Trespas fust porte de bleds sciez Trespas.
et emportez.—*Setone*. Nous dioms qe a mesme le
jour qil ad counte ceo fust le franc tenement un J.,
et en eide de luy nous venimes et les sciames;
jugement sil poet en nostre persone tort assigner.
—*Thorpe*. Vous veietz bien coment il ad justifie

¹ This report of the case is from | From H., and I.
L., and C.

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A.D. 1346. justified his act in right of another person, who is not a party to the plea, to do which does not lie in his mouth; for on this matter he ought to have pleaded Not Guilty, and then if the matter had been so found, it would have availed him; but since he has himself justified it, we demand judgment, and pray our damages.—*Seton*. If you had named J. we could have justified it well enough, and the non-naming of him is your fault, which ought not to turn to our damage.—And in the end *Thorpe* said that the defendant cut the corn as the plaintiff had made plaint; ready, &c.—And the other side said the contrary.

Trespass. (35.) § Roger Hillary brought a writ of Trespass against John de Leghe, and Hawise his wife, and several others, in respect of his corn cut, and his grass mown, and alleged that they carried the grass off when it became hay.—*Richemunde*. They have counted that the trespass was committed on such a day, and that the same trespass was continued until a fortnight afterwards, whereas a trespass committed on one day cannot be the same as that which is committed on another day, and therefore the same trespass could not be continued; judgment.—THE COURT. Answer over, for the count is good enough.—*Richemunde*. We say, as to the cutting of the corn, that this same Hawise, while she was sole, leased a third part of so much land, which she held in dower,

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son fait en autri dreit, qe nest pas partie al plee, A.D. 1346.
 quel ne gist pas en sa bouche a faire; qar sur
 ceste matere il dust aver plede de rienz coupable,
 et la matere trove lui ust value; mes puis qil lad
 mesme justifie, nous demandoms jugement, et prioms
 noz damages.—*Setone*. Si vous ussetz nome J.,
 nous lussoms justifie assetz bien, et le nent nomer
 de luy cest vostre defaute, qe ne deit pas tourner
 a nous en damage.—Et a dreyn *Thorpe* dit qil scia
 les bledz come il fust plaint; prest, &c.—*Et alii e
 contra*.

(35.)¹ § Roger Hillary porta brief de Trespas ^{Trespas.}
 vers Johan Ley, et Hawise sa femme, et plusours ^{Fitz.} ^{Barre,}
 autres, de ses bleds sciez, et sa herbe fauche, et ^{132.]}
 quant ceo fust fein lenporterent.²—*Richem*. Ils ount
 conte qe tiel jour le trespas se fist, et qe mesme
 le³ trespas fust continue tanqe une quinzeine
 apres, ou trespas fait a un jour ne poet estre mesme
 [qest fait a autre jour, et par taunt mesme]⁴ le
 trespas ne pust estre continue; jugement.—*CURIA*.
 Dites outre, qar le conte est assetz bon.—*Richem*.
 Nous dioms qe, quant al scier des bleds, mesme
 ceste Hawyse, tanqe ele fust soule, lessa la terce
 partie de taunt de terre, quele ele tient en dowere,

¹ From H., and I., but corrected by the record, *Placita de Banco*, Trin. 20 Edw. III., R^o 150, d. It there appears that the action was brought by Roger Hillary, knight, against John de Leghe and Hawise his wife, and eight others.

² The declaration was, according to the record, "quod prædicti "Johannes et alii, die Lunæ "proximo post festum Sancti Petri "ad Vincula anno regni domini "Regis nunc decimo nono, vi et "armi . . . blada ipsius "Rogeri, videlicet, frumentum

" hordeum, avenam, siliginem,
 " fabas, et pisas, apud Claybroke
 " nuper crescentia messuerunt, et
 " herbam suam ibidem tunc cres-
 " centem falcaverunt, et fenum
 " inde proveniens et blada prædicta
 " ceperunt et asport-
 " averunt, et transgressionem illam
 " a præfato die Lunæ per quin-
 " que septimanæ tunc proxime
 " sequentes continuarunt . . .
 " contra pacem Regis."
³ H., le jour.
⁴ The words between brackets are omitted from I.

No. 35.

A.D. 1346. of which the land in which he supposes the corn to have been cut is parcel, to one R.¹ until the full age of one E.,¹ son and heir of her husband, yielding ten¹ shillings a year at two stated terms, with a covenant that, if the rent should happen to be in arrear at the two terms and for one fortnight afterwards, it should be lawful for her to enter, and hold the land as she had previously done, and that by deed indented, of which they made *profert*. This R. bequeathed his term to one S.,¹ and they were seised of the rent by the hand of S. This S. granted his estate to Roger, the plaintiff. And we say that the rent was in arrear for a fortnight after the two terms, and therefore we entered in accordance with the covenant, and cut the corn, as it was quite lawful for us to do. This E. is still under age, and we demand judgment whether in respect of that cutting you can attach tort in our person. And, as to the mowing of your grass and carrying away the hay, Not Guilty, and so also in respect of coming with force and arms.—*Grene*. You

¹ As to the names and the rent. see p. 575, note 1.

No. 35.

de quei la terre en quelle il suppose les bleds estre A.D. 1346.
 sciez en est parcele, a un R. tanqe al age dun E.,
 fitz et heir son baron, rendaunt x.s. par an a ij.
 termes, et sil avenesist qe la rent fust arere a les
 ij. termes et une xv^e apres qe lirreit a luy dentrer,
 et le tener come avant ele fist, et ceo par fait
 endente, quel ils mistrent avant; le quel R. devisa
 son terme a un S., et eux seisiz de la rente par
 la meyn S. le quel S. granta son estat a Roger
 pleintif. Et dioms qe pur une xv^e apres les ij.
 termes la rente fust arere, par quei solonc le
 covenant nous entrames, et les sciames, come bien
 nous lust; le quel E. est unqore deinz age, et
 demandons jugement si de cel scier poetz tort en
 nostre personne attacher. Et, quant al faucher de
 vostre herbe et fein enporter, de rien coupable, et
 auxi al venir a force et armes.¹—*Grene.* Vous veietz

¹ According to the record all the defendants pleaded Not Guilty, "quo ad venire vi et armis, et fal- cationem et asportationem feni inde provenientia," and issue was joined upon that plea.

"Et Johannes et Hawisia, quo ad messionem et asportationem bladi, &c., dicunt quod ipsa Hawisia, dum sola fuit, per nomen dominæ Hawisiae quæ fuit uxor Willelmi de la Plaunce, per quandam indenturam inter ipsam Hawisiæ et quandam Willelmum Danet factam, . . . concessit et dimisit ipsi Willelmo totam dotem suam sibi continentem de situ manerii de Claybroke et terrarum dominicarum quas dictus Willelmus colere solebat in manorio de Claybroke, una cum pratis, pascuis, et pasturis, aquis, et omnibus aliis propter fieuis dictæ tertie parti spectantibus, habenda et tenenda prædicto

"Willelmo Danet et assignatis suis usque ad legitimam statem "Willelmi filii et heredis prædicti "domini Willelmi de la Plaunce, vel alterius eujuscunque heredum, "si dictus Willelmus filius domini "Willelmi infra statem obierit, Reddendo inde annuatim dictæ dominæ Hawisiae sexaginta solidos argenti ad Festu Annunciationis beatæ Mariæ Nativitatis Sancti Johannis Baptiste, Sancti Michaelis, et Sancti Thomæ Apostoli, æquis portionibus, pro omnibus servitiis, exactionibus, et demandis. Et, si dictum redditum sexaginta solidorum ad aliquem terminum, in parte vel in toto, a retro fore contigerit, bene liceret dictæ dominæ Hawisiae in tota dicta tertia parte, cum pertinentiis, distingere, et distinctiones retinere quousque de prædicto redditu, simul cum arragiis, plenarie

No. 35.

A.D. 1346. see plainly how she claims dower in this tenancy, and she has not said how it came to her—whether by recovery or by assignment—and she has also not said that she was seised before the lease, but the contrary will rather be supposed by the words of the deed; for the deed purports that she leased to him a third part of the demesne lands which were her husband's, to which she is entitled as her dower, and that the person to whom she leased had been wont to till the demesnes; and by the statement that she is entitled to it as dower it is supposed that she had not had it assigned to her, and therefore the assignment had at that time been delayed, and we demand judgment.—

No. 35.

bien coment ele clayme dower en cele tenance, et A.D. 1346.
 ele nad pas dit coment il avyent, ou par recoverir
 ou par assignement, ne auxi ele nad pas dit qele
 fut seisi avant la lees, mes le contrare plutoust serra
 suppose par la parole de fait; qar le fait voet qele
 luy lessa la terce partie des demenes terres qe
 furent a son baroun qe a luy affiert come son
 dower qe les demenes terres celuy a qi ele lessa
 soleit coiller; et par ceo qest parle qe affiert a
 luy est suppose qele nel avoit a luy assigne, et
 adonques par taunt respite, et demandoms jugement.—

<p>“ fuerit satisfactum, vel quod bene “ liceret prædictæ dominæ Hawisie “ ad libitum suum in omnibus “ terris et tenementis suis prædictis, “ cum pertinentiis, ingredi et “ retinere, non obstante aliqua “ calumnia prædicti Willelmi, si “ contingere prædictum redditum “ per unam quindenam post “ terminos prænotatos a retro “ existere, de quibus quidem tene- “ mentis prædictus Willelmus “ Danet seisisitus fuit, et ipsa “ similiter Hawisia fuit seisia de “ prædicto redditu per manus ejus- “ dem Willelmi. Qui quidem Willel- “ mus Danet statum suum quem “ habuit in eisdem tenementis “ legavit cuidam Thomæ Danet “ fratri suo in testamento suo. Et “ idem Thomas seisisitus fuit de “ eisdem tenementis, et redditum “ prædictum ipsi Hawisia soluit, “ et postmodum statum suum inde “ dimisit præfato Rogero Hillary, “ qui quidem Willelmus filius “ Willelmi adhuc est infra astatem. “ Et quis prædictus redditus eidem “ Hawisia inde debitus de quatuor “ terminis proximis ante diem “ prædictum, videlicet, de terminis “ Sancti Michaelis et Sancti “ Thomæ Apostoli anno regni</p>	<p>“ domini Regis nunc Angliæ decimo “ octavo, et de terminis Annuncia- “ tionis beatæ Mariæ, et Nativitatis “ Sancti Johannis Baptiste, tunc “ proxime sequentibus, et per quin- “ denam post dictam Festum “ Nativitatis Sancti Johannis, a “ retro fuerunt, ipse Johannes “ de Leghe, nunc vir prædicta “ Hawisia, et ipsa Hawisia, virtute “ indenturæ prædictæ, intraverunt “ in tenementis illis. Et petunt “ judicium si prædictus Rogerus “ Hillary de bladis crescentibus “ super terram prædictam tempore “ ingressus sui, per formam inden- “ turæ prædictæ, ratione prædicti “ redditus non soluti, &c., aliquam “ injuriam in personis ipsorum “ Johannis de Leghe et Hawisia “ assignare possit, &c. Et pro- “ ferunt hic dictam indenturam “ quæ prædictam concessionem “ præfato Willelmo Danet factam “ testatur.”</p> <p>The other defendants pleaded, “ quod ipsi venerunt ut servientes “ ipsorum Johannis et Hawisia, “ absque hoc quod ipsi aliquod “ fecerunt contra pacem, sicut præ- “ dictus Rogerus Hillary superius “ supponit,” and issue was joined on their plea.</p>
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No. 35.

A.D. 1346. *Richemunde.* We have said that we leased to one whose estate you have by an indenture (of which we have made *profert*) on conditions for entry, and we tell you that he was seised through the lease, and you do not deny that the conditions were broken, and that we entered; judgment.—*WILLOUGHBY.* You could never lease nor could he be seised through your lease unless you were previously seised; therefore we understand by the manner of your answer that you were seised and did lease. Therefore, *Grene*, answer over what you will.—*Grene.* Then, Sir, we tell you that your husband held the same land by knight service of one William la Zouche, which William seized the wardship after his death, and continued that estate in the whole of the wardship until he leased the wardship to this same R.,¹ to whom you have supposed the lease to have been made by you, *abesse hoc* that he assigned to you a third part in dower, or that a third part was ever, in his time, severed from the two other parts. And we tell you that R. continued that estate in the wardship after the lease, until he bequeathed as above; and so we say that the deed of which you make use cannot be a deed which can be supposed to pass possession, because you had nothing, but was made during his seisin, which deed so made during seisin cannot give you a title to enter by any condition therein expressed. And therefore, inasmuch as you have confessed the cutting of our corn for a cause which does not make it congeable, we demand judgment, and pray our damages.—*Richemunde.* We do not admit the

¹ For the name, see p. 579, note 2.

No. 85.

Richem. Nous avoms dit qe nous lessames a un A.D. 1346. qui estat vous avetz par une endenture, quele nous avoms mys avant, sur condicions dentrer, et vous dioms qil fust seisi par le lees, et vous ne dedites pas les condicions estre enfreintz, et qe nous entrames ; jugement.—*WILBY.* Vous ne poietz jammes lesser et il estre seisi par vostre lees si vous ne fussetz seisi avant ; par quei nous entendoms par la manere de vostre respons¹ qe vous fuistes seisi et lessastes. Par quei, *Grene*, dites outre qe vous voiletz.—*Grene.* Sire, doncqes vous dioms qe vostre baron tint mesme la terre en chivalrie dun William la Zouche, le quel William sesist la garde apres sa mort, et cel estat en tute la garde continua tanqil lessa la garde a mesme celi R. a qd vous avetz suppose le lees par vous estre fait, saunz ceo qil vous assigna la terce partie en dowere, ou unques en son temps la terce partie severe des ij. parties. Et vous dioms qe R. cel estat continua en la garde apres le lees tanqil devisa *ut supra* ; et issi vous dioms qe le fait qe vous usez ne poet estre fait quel possessioun dust passer, pur ceo qe vous navietz rienz, mes fust fait en seisine, quel fait issi fait en seisine ne poet doner a vous title dentre par nulle condicion leinz mote. Et par taunt, de ceo qe vous avetz conu le scier de noz bledz pur cause nent courgeable, nous demandoms jugement, et prioms noz damages.²—*Richem.* Nous ne

¹ The words de vostre respons are omitted from I.

² The replication was, according to the record, "quod quidem "Willelmus de la Plaunce fuit "seisitus de integro predicti "manerii, et manerium illud tenuit "de Willelmo la Zouche de "Haryngworthe per servitium "militare, qui quidem Willelmus

" de la Plaunce obiit seisitus de " eodem manerio, per quod præ- " dictus Willelmus la Zouche " intravit in eodem manerio, et " illud tenuit nomine custodie, " ratione minoris ætatis Willelmi " filii et heredis ejusdem Willelmi " de la Plaunce, et postmodum " idem manerium dimisit præfato " Willelmo Danet tenendum usque

No. 35.

A.D. 1346, continuance of the wardship in the person of William or of R., but since your plea is taken with the intendment that we had nothing before the lease, we tell you, as to that, that we were seised and did lease, and that R. was seised through our lease; ready, &c.—*Grene*. You shall not be admitted to that, for yesterday we pleaded so as to compel you to say that you were seised before the lease, and you would not do that in any manner, but said expressly that you would not say so, and of that we take your records to witness; therefore you shall not be admitted to aver it now.—WILLOUGHBY. Deliver yourself; for in this case in which she says that she leased it is included that she was previously seised, because otherwise she could not lease; therefore that which he now says is in pursuance of his first plea.—*Grene*. Then, Sir, we pray that, since she has claimed to hold this land in dower, and she has confessed that the husband's heir is still under age, in which case she could not be tenant in dower without assignment or recovery, she do therefore state precisely how she was endowed.—*Richemunde*. You have said, in your replication, that the guardians continued their estate, *absque hoc* that we had anything in dower, and we will aver the contrary of that, and therefore, as to compelling us now to show how we were endowed, we do not understand that the law compels us to say anything for that purpose; and,

No. 35.

conissons pas la continuaunce de la garde en A.D. 1346.
la persone William ne R., mes, puis qe vostre
plee est pris de tiel entente qe nous navioms
rienz avant le lees, a ceo vous dioms qe nous
fumes seisi et lessames, et R. seisi par nostre lees;
prest, &c.—*Grene.* A ceo navendrez vous pas, qar
hier nous pledames de vous aver chace daver dit
qe vous fustes seisi avant le lees, et ceo ne
vodrietz vous faire en nulle manere, mes deistes
expressemement qe vous nel vodrietz dire, et de ceo
pernoms voz recordes; par quei del averer a ore
ne serrez resceu.—*WILBY.* Delivrez vous; qar en
ceo cas qe ele dit qe ele lessa est compris qe ele
fust seisi avant, qar autrement ele ne poait lesser;
par quei son dit a ore est pursuaunt de son
primere plee.—*Grene.* Donques, Sire, prioms qe puis
qe ele ad clame a tenir cele terre en dowere, et
ele ad conu qe leir¹ le baron est unqore deinz age,
en quel cas ele ne poait estre tenant en dowere
saunz assignement ou recoverir, par quei nous
prioms qe ele mette en certain coment ele fust
dowe.—*Richem.* Vous avetz dit, en vostre replicacion,
qe les gardeins continueroient lour estat, saunz ceo
qe nous navioms rienz en dowere, et le contrare de
cele nous voloms averer, par quei de nous chacer a
ore a moustrer coment nous fumes dowe nentendoms
pas qe a ceo faire la lei nous chace a dire; et, de

“ad legitimam statem prædicti” “dimisit ipsi Rogerio Hillary,
“heredis, qui de integro manerii” “absque hocquod prædicta Hawisia
“prædicti seisisus fuit, virtute” “seisita fuit de prædicta tertia
“dimensionis prædictæ, quousque” “parte prædictæ terræ in qua præ-
“statum suum quem habuit in” “dicta transgressio facta fuit
“codem manerio legavit cuidam” “nomine dotis separata de præ-
“Thomæ fratri ejusdem Willelmi” “dictis duabus partibus ante diem
“Danet, virtute cuius legati idem” “confectionis scripti prædicti. Et
“Thomas fuit inde seisisus post” “hoc paratus est verificare, unde
“mortem prædicti Willelmi Danet” “petit judicium, &c.”
“quousque idem Thomas eundem” “¹ I., le heir.
“statum suum de manerio illo

No. 86.

A.D. 1346. since you will not accept that averment, we demand judgment, &c.—*Grene*. Then we tell you that the guardians continued their estate in the wardship until R. bequeathed as above, *absque hoc* that you were seised of the third part in dower, by assignment from anyone, severed or divided from the other two parts, before the date contained in the deed; ready, &c.—*Richemunde*. And we will aver that we were seised of it in dower before the date of the deed, and leased it to R., and that R. was seised through our lease, &c. And his statement that the land in respect of which the dispute is was never severed from the other two parts is only a matter of evidence, and we pray that it be not entered on the roll as part of his plea.—*SHARSHULLE*. If a woman be dowable of particular land, and I assign to her a third part of it, without defining which third it shall be in particular, she cannot enter on any particular part; but if I assign to her a certain part, that is dower, and is severed from the other two parts, but the other is not; therefore, since this is a matter which declares his issue, there is no damage even though it be entered.—And in the end the issue was entered in that manner.

Right.

(36.) § A writ of Right patent was brought in a Court Baron, and removed by Tolt into the County Court, and by *Pone* out of the County Court into the Bench. And now the Sheriff had returned the writ of Right, and the *Pone* also, but not the Tolt.

No. 86.

puis qe vous ne voletz resceivre cel averement, A.D. 1346.
 nous demandoms jugement, &c.—*Grene*. Donqes vous
 dioms nous qe les gardeins continuerent lour estat
 de la garde tanqe R. devisa *ut supra*, saunz ceo
 qe vous fustes seisi de cele en dowere dasquny
 assignnement severe ou devise de les ij. parties
 avant la date compris deinz le fait; prest, &c.—
Richem. Et nous voloms averer qe nous fumes
 seisiz en dowere de cele avant la date del fait, et
 lessames a R., et R. seisi par nostre lees, &c. Et
 ceo qe il parle qe ceo de qi le debat est ne fust
 unques severe de les ij. parties ceo nest qe¹ evidence,
 et prioms qe ceo ne soit entre en roulle come
 parcele de son plee.—*SCHARS*. Si une femme soit
 dowable dune terre, et jeo lassigne la terce partie
 saunz determiner quale ceo serra en certain, ele ne
 poait entrer en nulle certeine parcele; mes, si jeo
 lassigne certeine parcele, cele est dowere, et severe
 de les ij. parties, et lautre nient; par quei puis
 qe cest une matere qe desclare son issue il nest
 pas damage mes qil soit entre.—Et a dreyn lissue
 par la manere fust entre.²

(86.)³ § Brief de Droit patent fust porte en Droit.
 Court de Baroun, et remue par Tolte en counte,
 et par le *Pone* hors de counte en Baunk. Et ore
 le Vicounte avoit retourne le brief de Droit, et
 auxi le *Pone*, mes nent le Tolte. Par quei *Grene*,

¹ I., pas.

² According to the record the rejoinder, upon which issue was joined, was, "quod præfata "Hawisia seista fuit de prædicta "tertia parte terræ prædictæ "nomine dotis in qua terra præ- "dictus Rogerus Hillary supponit "transgressionem illam fieri, et "eandem terram per scriptum "suum prædictum concessit præ-

"fato Willelmo Danet, virtute "cujus concessionis idem Willel- "mus fuit inde seisisitus per trans- "mutationem possessionis inde "de seisia prædictæ Hawisia in "personam prædicti Willelmi "factam virtute scripti prædicti." The award of the *Venire* follows, but nothing further appears on the roll.

³ From H., and I.

No. 97.

A.D. 1346. Therefore *Grene*, after the defendant had counted against him, denied the words, and said that he did not understand that the Court had warrant to put him to answer, because this original was, at the commencement, sued in a Court Baron, and returned out of the County Court into this Court of Common Pleas, and you are not apprised how it came into the County Court, because, if it had come into the County Court by Tolt, the Sheriff ought to have returned the names of the four knights who had to make the Tolt; and, inasmuch as nothing is returned to you as to how it came out of the Lord's Court, it has come into this Court without warrant.—*WILLOUGHBY*. What you say is wrong; the Tolt would not be made by four knights, but by the Sheriff himself; and though he has not returned the Tolt, there is no necessity that he should do so, for the record is before us, and that by warrant which came to the Sheriff to return it into this Court; therefore we have nothing to do with anything earlier than this warrant for the removal which went to the Sheriff; therefore answer.—*Grene* defended, and went out to imparl.

Dower. (37.) § A writ of Dower was brought against William Lavenham and Maud his wife. The husband and his wife said that the wife had nothing, and the husband took the tenancy upon himself, and vouched himself, by another surname, and Maud his wife.—*Skipwith*. You ought not in that manner to be admitted to this voucher, for I say that you and your wife hold jointly, and held jointly on the day on which the writ was purchased; and we tell you that you are the same person; judgment, &c.—*Huse*. That plea is double—one is that we are joint tenants, which falls under the head of fact; another is that we are the same person, which falls under the head of law; and so

No. 37.

apres qe le demandant avoit counte devers luy, A.D. 1346.
 defendi les paroles, et nentendoms pas qe la Court
 avoit garrant de luy mettre a responce, qar ceste
 original a commencement fust suy en Court de
 Baroun, et retourne hors de counte ceinz, et vous
 nestes pas apris comment il vient en counte, qar si
 ceo ust venu en counte par Tolte, le Vicounte dust
 aver retourne les nouns de iiiij. chivalers qe deivent
 faire la Tolte; et de ceo qe rienz vous est
 retourne comment il vient hors de la court le
 seignur ceo est venuz ceinz saunz garrant.—WILBY.
 Vous dites mal; la Tolte ne serra pas fait par
 iiiij. chivalers, mes par le Vicounte mesme; et
 mesqil neit pas retourne la Tolte, il ne covent pas
 qil le feit, qar le recorde est devant nous, et par
 garrant qe vient al Vicounte del ceinz retourner;
 par quei plus haut qe a cele garrant de remuement
 qe sen ala al Vicounte navoms qe faire; par quei
 responez.—*Grene* defendi, et issit denparler.

(37.)¹ § Brief de Dowere porte vers William Dowere.
 Lavenham et Maude sa femme. Le baron et sa
 femme disoient qe la femme navoit rienz, et le
 baron emprist la tenance, et voucha luy mesme, par
 autre surnoun, et Maude sa femme.—*Skip*. A ceo
 voucher ne devetz par la manere estre resceu, qar
 jeo dye qe vous et vostre femme tenez et tenistes
 jointement jour de brief purchace; et vous dioms
 qe vous estes mesme la personne; jugement, &c.—
Huse. Ceo plee est double, un de ceo qe nous
 sumes jointenants, quel chiet en fait, un autre de
 ceo qe nous sumes mesme la personne, qe chiet

¹ From H., and I. For a previous Y.B., Mich., 19 Edw. III., No. 37
 writ of Dower against the same (p. 386).
 parties, which, however, abated, see

No. 37.

A.D. 1346. his plea is double, and we pray that he hold to one only.—WILLOUGHBY. He does not now give his counterplea with the intention of compelling you to show cause for your voucher, but to the effect that you do not hold alone since your wife is joint tenant with you, and so the whole is a question of fact.—*Huse*. Then we say that the wife had nothing; ready, &c.—*Skipwith*. Then you do not deny that you are the same person.—WILLOUGHBY. The law does not put him to answer as to that, since you did not rely upon that point in order to oust him from the voucher.—*Skipwith*. Then, Sir, we will imparl.

No. 37.

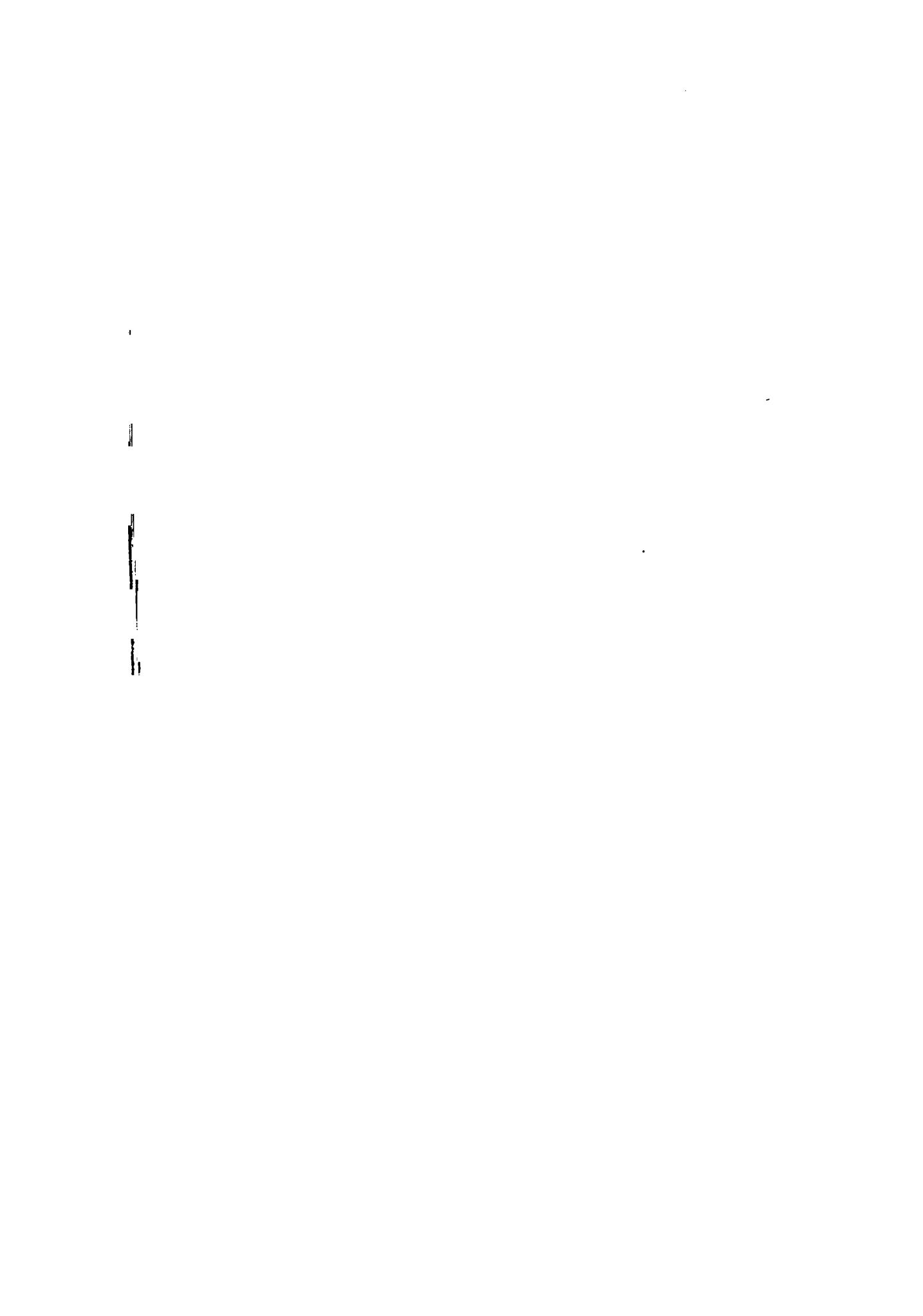
en ley; et issi son plee double, et prioms qil tiegne A.D. 1346
al un.—*WILBY*. Il ne doun pas son countreplee
a ore a tiele entente de vous chacer de moustrer
cause de vostre voucher, mes de ceo qe vous ne
tenes¹ pas soul la ou vostre femme est jointenant
od vous, et issi tut en fait.—*Huse*. Donques dioms
nous qe la femme navoit rienz; prest, &c.—*Skip*.
Donques vous ne dedites pas qe vous estes mesme
la personne.—*WILBY*. A ceo lei ne luy mette pas a
responde, puis qe vous ne reliastes pas sur cel
point de luy ouster de voucher.—*Skip*. Sire, donques
voloms emparler.

¹ I., vouches.



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A

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If the writ be brought against A.B. when there are two persons of that name, father and son, the writ is good as against the father, because a father cannot be expected to change his name on account of his son, 386-388.

(Aiel.) Where it was pleaded in abatement of a writ in respect of land that it had been purchased while another writ was pending in respect of a fishery upon which writ the land had been put in view, and which had abated for non-summons, it was held that the writ in respect of the land was good, because land could not be a fishery, nor a fishery land, 536.

(Annuity.) If one claims as Master of a House or Hospital, and, pending the writ, is elected and confirmed a Bishop, the writ does not abate, because the creation to be a Bishop is not complete, 4-6.

If one claims simply as A. son of B., and in the specialty creating the annuity B. is further described as "citizen of London," the writ

ABATEMENT OF WRITS—cont.

abates because not in accordance with the specialty, 138-140; 141, notes 2 and 4.

(Appeal of Maihem.) If, when the Appeal is brought in the name of husband and wife, against a husband and wife, the concluding words of the writ are *cum appellat*, the writ abates, because a tort committed against a woman during her coverture is against the husband also, and one committed by a wife is committed by the husband also, 200.

(Darrein Presentment.) If the last presentation was made by the Ordinary in right of the plaintiff, through lapse of time, or by a guardian, the writ is good, and the rule that, if any one but the plaintiff himself or his ancestor presented the last person, the proceeding should be by *Quare impedit* does not apply, 212.

(Debt.) Where the debtor had bound himself and his heirs by obligation, and a writ of Debt was brought against the heir, it was held to be good though the heir was not described as heir in it, 136-138.

(Entry *ad terminum qui præterit*.) If the writ be brought in respect of the bailiwick of a soke which is stated in the writ to extend into certain vills mentioned, and it be alleged and not denied that the soke extends into other vills not named, the writ abates, 80-82; 83, notes 5 and 6.

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*London. When I was there
the Queen had a new
garden at Green Park. The
Queen's son was a young
man then. He was very
handsome. He was dressed
in a white velvet jacket
and white breeches. He
had a sword at his side.
The Queen's son
was very fond of the Queen.
He was very fond of
the Queen. He was very
fond of the Queen. He
was very fond of the Queen.*

Brooks' first article. It is the
height of the author's art. Brooks' article
is part of the movement he launched
a while ago. Brooks' own ideas have
been refined, but he is still general.
The movement is still there.

Quinn says if there are two
titles in one book it is best to
use the same name as whatever was
selected to appear and there is a
possibility that it will only be
used by the one person using the
name of a book.

These 2 appear to
seem that heathen were forced
by his parents and the world to do
just as he did against the law
and he repented while still in
heathen land - but he had not
done his duty.

Where two persons see her it becomes
a question of $N = 2$ and $m = 2$ and
the two persons in the same
of the group, the other being dead.
The two questions are now
to have supposed the other to be
dead.

Imports. If the word is brought in integrally into the definition placed in a note which is part of the plant, it is not renamed, and there is no rule mentioned in the code regarding the note; extends into

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and the power of the

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A would himself be bound by the terms of the contract
to B and C if a collector had
granted that C to A, executed a
written instrument in B's favour for
a certain sum on a particular day,
and at a particular place, the sum
being specified as well. In an
action of Assumpsit brought by B, A
denied the deed of assignment, and
alleged that he went to the appointed
place on the appointed day, and
executed the instrument, and left it
with the Clerk of the Statute in
London to B, who was not then
present. As, however, it was not in
fact delivered to B, either by A or
by anyone on his behalf, on the
appointed day, nor tendered to B
thereafter, and as B could not
commence an action without a judgment
A was given that A was
not bound to B.

A defendant in Arizona alleged before
judges that he had paid a certain
sum of money to the plaintiff, and
produced ~~value~~ ^{value} in proof. The
~~plaintiff~~ was nevertheless allowed
to tender his paper of law that he
had not received the money. 446

Where a plaintiff tendered wages of law that he had not had any money paid to him by the defendant, and the defendant subsequently professed a release of all actions executed by the plaintiff after his wages of law had been tendered, but before it had been completed, it was held that the plaintiff must be discharged from his wages of law, and must answer as to the deed of release.

**THE ABATEMENT OF WAITS: COMMISSION
OF PLEAS.**

ADMISSION TO DEFEND:

See RECEIPT.

Aid:

In **Annuity**, where it was alleged that a composition had been made between a Prior and a vicar at the time of the creation of a vicarage, the vicar who was defendant prayed and had aid of the Ordinary, and of the Prior who was plaintiff, 64-70.

If execution of a fine has been awarded to a plaintiff in *Scire facias*, the limitation having been to the plaintiff (A.) and her husband and the husband's heirs, and the tenant brings a writ of Error, A. cannot then have aid of the husband's heir, who was a stranger to the judgment, 196.

Where tenant for life in virtue of a fine prayed aid of A., who by the same fine had a remainder in fee tail, it was not allowed. He then prayed aid of the same A. on the ground that, in default of issue between husband and wife, there was a further remainder to the right heirs of B., and that A. was one of those heirs. It was held that aid could not be had of A. without her co-heirs. A prayer for aid of her and her co-parceners was then made, but could not be allowed because of the intervening remainder in fee tail, 298-300.

Aid of patron and Ordinary allowed to the chaplain of a chantry in *Scire facias* on fine, 552-554.

See REPLEVIN.

Argl:

See ABATEMENT OF WRITS.

AMENDMENT:

- Of Judgment. *See DOWER.*
- Of Record of *Nisi Prius*. *See NISI PRIUS.*
- Of Warrant of Guardian. *See GUARDIAN.*

ANNUITY:

Pleadings in, where the action was brought by a Prior against a vicar on the ground of a composition alleged to have been made at the time of the creation of the vicarage, 66-70; 424-426.

See ABATEMENT OF WRITS; EXECUTION; PROCESS.

APPEAL:

Pleadings on writ of, with regard to outlawry of the appellor, 428-434.

APPEAL TO THE COURT OF ROME:

See ATTACHMENT ON PROHIBITION; ESSOIN; MAINPRISE.

APPEAL OF MAIHEM:

See ABATEMENT OF WRITS.

APPEAL OF ROBBERY:

See LONDON.

ASSISE:

See DARREIN PRESENTMENT; MORT D'ANCESTOR; NOVEL DISSEISIN.

ATTACHMENT ON PROHIBITION:

Where, as alleged, plea had been held, contrary to a Prohibition, in Court Christian, touching oak-trees cut down, and debt, the plaintiff brought one action against the Judge who had held the plea, and another against two persons who had prosecuted it. The Judge pleaded that no Prohibition had been delivered to him by the plaintiff, and that he did not hold any plea touching the oak-trees and the debt contrary to the King's Prohibition, and his wager of law thereon was accepted. Of the other two defendants, A. and B., A. pleaded that he was parson of a church and was entitled to tithe of underwood within his parish, and that he had caused the plaintiff to be cited because the tithe had not been paid, but only after a writ of Consultation had been obtained, *absque hoc* that he had prosecuted any plea touching any great trees or debt. Issue was joined on this plea to the country. B. pleaded

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that he was particularly envious of
the general, and that he had been
commissioned to write the general's ac-
tivities before the future members
of the Senate. He also stated that he
had written the general's biography, but that
he had given it to his wife and never delivered
it, and that he had presented
the general's biography and great trees of
leaves and the wings of new timber
was accepted. The general was
then asked if he had any other
information which he could say. He said
he did not.

Bonapart against one who had sued
prosecutor at the Court of Errors
but not the King's prosecutor as a
counsel, and caused him to be tried
in absentia there; & another way he
had to the public authority of a
paper pronouncing himself
the King's prosecutor.

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and stood a man of Atlanta which was returned by the Sheriff as having been sent to the city. A then sued at law to have Atlanta and L. the debt satisfied and it was so. The Sheriff of Atlanta and the Sheriff of the State of Georgia being both present to see to the payment of the debt he returned the same. The name of the debt was the sum of \$1000.00 A. who alleged that the amount of judgment were due to him and played a file against Atlanta which was granted before L. had not yet a day in Court 20-202.

APPENDIX

H. J. Ashe of New Bedford, a defendant appears by attorney, and reads in statement of the witness bar and attorney appears another attorney without removing the first and the second attorney

LAWRENCE—TMC.

say he is ready to hear the verdict of the Senate, the Court will have no report as what will be said by the time another, but will give judgment if a quorum exists. The

W. D. GILL : E. WOOD : Q. H. RICE
H. A. LEE

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Where the word had been read at the
gate and that the person who read it
had been compelled to execute a
sentence notwithstanding his innocence of guilt.
A similar clause was proposed against
the colonies, pp. 22-24.

Where A had engaged several
separate merchants in favor of B
and said in each instance had other
merchants associated with him, there
was an indorsement of indebtedness con-
tained for the payment of a certain
sum of money by installments by A,
B, said merchant, and A said an
advice (verba) on behalf of himself
and the other obligors on the ground
that the condition had been per-
formed and he brought the whole
sum of money into Court, and
alleged that he had previously been
ready to pay the installments as pro-
vided in the indenture. The other
merchants did not appear, but it was
said that the word of Adelio Verba
purchased for A and for them in
a manner was good, and issue was
joined on the question whether A
had, as he alleged, duly tendered
the installments to B.

B**BAILIFF:***See LIBERTY.***BARON AND FEME:**

A tort committed against a woman before she is covert baron is supposed to be committed against her alone, but when committed afterwards is supposed to be committed against both husband and wife, 200

BONY:

Interference of the King to prevent dismemberment of, 54-56.

CASTARD:*See COSINAGE; VOUCHER.***BISHOP:**

A Bishop is not created by election and confirmation alone, 4-6.
Said not to vacate a precentorship by papal provision to a see and confirmation, nor until consecration, 526-528; 529, note 1.

*See PROCESS.***C****CHALLENGE:**

Of the array and of the polls in Assise of Novel Disseisin, 486.
Mode of trial of jurors who have been challenged, 486-490; 492.

CHESTER:

Foreign voucher in the city of, 186-188.

CLERK AND LAYMAN:*See QUARE NON ADMISSIT.***COGNISANCE OF PLEAS:**

Where cognisance was claimed by the bailiffs of a liberty, who produced a royal charter to the effect that the inhabitants should not plead or be impleaded, in respect of certain matters, anywhere but within the liberty, and the charter did not mention before whom the pleas were to be held, the cognisance was refused by the Court of Common Pleas, 116.

If, on a writ of Account, receipt of part of the money be alleged in one liberty and part in another, cognisance will not be granted, as there cannot be cognisance by parcels, 120.

Cognisance was prayed by the Mayor and Bailiffs of a town lying within a certain manor, within which manor cognisance of pleas had been granted by the King to the Queen his mother, with license to her to grant the cognisance to her tenants within the manor. Cognisance was granted by her to the men or commonalty of the town having a Mayor and Bailiffs, which grant had been confirmed by the King. A Prior intervened, alleging that the tenants of the manor were his tenants, and not the Queen's. The defendant being non-suited, the claim of cognisance was, for the time, dropped, 150-158.

CONSULTATION:

Writ of, 230; 303, note 3; 306.

COSINAGE:

Where it was alleged in the count that the *consanguineus* A., on whose seisin the action was brought, had died without heir of his body, the tenant pleaded that he was himself the son and heir of A., to which it was replied that he was born out of wedlock. The question arose whether this was a good replication without a definite statement that

Court of Appeal

In respect of a claim by the plaintiff against the defendant for the sum of \$1000, the court held that the plaintiff had failed to prove his case.

Court of

Court of Appeal

Court of

Court of

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The court held that the plaintiff's claim against the defendant for the sum of \$1000 was well founded. The court also held that the defendant had failed to prove his case.

The action was brought by A. and one of the sons of B. against C. on the ground that a covenant had been made between B. and C. to the effect that after partition between

Court of Appeal

the plaintiff would make available to the defendant the sum of \$1000 for the purpose of purchasing a house. The court held that the plaintiff had failed to prove his case.

Court of

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Court of Appeal

Court of

DAY OF GRACE:

Where husband and wife had made default on a writ of Waste, and the wife had afterwards been admitted to defend her right, and had pleaded, the plaintiff prayed a day of grace, but could not have it because the husband held by barony, 132-134.

~~DEBT~~:

Where the writ was brought against an Abbot, and the declaration was that his predecessor had bound himself, with the consent of the Convent, and the defendant pleaded that the deed was that of the Abbot alone, issue was joined on the replication that it was the deed of the Abbot and Convent, 96-98.

Where the debtor had bound himself and his heirs by obligation, and the action was brought against the heir, issue was joined on the question whether lands and tenements had descended to the heir from the debtor by descent of inheritance, and, upon the finding of a jury in the affirmative, judgment was given for the plaintiff to recover the debt and damages, 136-138; 139, note 1.

Where an obligation was produced in which the defendant bound himself to pay the plaintiff twenty pounds if he failed to pay twenty marks on an appointed day, it was pleaded that the Court could not take cognisance because that which was demanded was usury, but the objection was over-ruled, 320-322.

See ABATEMENT OF WRITS; EXCHEQUER; EXECUTORS.

DECEIT:

A husband and wife having lost by default what was the right of the wife, she, after her husband's death, prayed a writ of Deceit. It was objected that she ought instead to

DECEIT—cont.

have brought a writ of *Cui in vita*, but it was held that the provision by statute of the writ of *Cui in vita*, in place of a writ of Right, did not deprive her of the writ of Deceit, which was therefore allowed, 426-428.

Where A., a defendant in *Scire facias* on a fine, had execution awarded against him, he sued a writ of Deceit. The garnishers and the under-sheriff were examined, and stated that A. had been duly warned to appear on the day mentioned in the *Scire facias*. Judgment was therefore given that A. should take nothing by his writ, 520-522.

Where, on a writ of Waste, the waste was found by verdict, the defendant afterwards prayed a writ of Deceit, on the ground that he had not been summoned, attached, or distrained, and it was granted. His prayer that the writ might be directed to the Coroners instead of the Sheriff, because the Sheriff was implicated, was, however, refused, 522.

See PROTECTION.

DETINUE:

A verdict having been found for the plaintiff at *Nisi prius*, with damages to the amount of 10 marks if the writing detained had not been burnt or eloigned, and of 20 marks if it had, judgment was prayed in the Common Bench for the 20 marks, but not given. A writ of enquiry of damages *de novo* was granted, because enquiry ought to have been made at *Nisi prius* whether the writing had been burnt or eloigned, or not, 74-76.

DISCONTINUANCE:

See TRESPASS.

DOWER:

Mode of proceeding where the husband's heir had been vouched in two counties, and judgment had been given that the defendant should recover against him if he had anything in the county in which the action was brought, and if not against the tenant, and a dispute arose on the Sheriff's return that he had made livery partly out of the heir's inheritance, and partly out of the tenant's land, 64-66.

If the tenant vouches the husband's heir as being in the wardship of a particular guardian, and that guardian appears and counterpleads the voucher on the ground that he is not sole guardian but there are others not named in the voucher, and issue is joined with the tenant on that point, the defendant will not have immediate judgment against the tenant, but will be delayed until the issue has been tried, 72-74; 75, notes 1 and 11.

Where the tenant vouched the husband's heir who was in the defendant's wardship, the defendant appeared as vouchee by attorney, and demanded dower in person. As vouchee she admitted the heir's liability to warrant, but alleged that she had nothing of his inheritance in wardship. Judgment was given for her to recover her dower against herself if she had assets of the heir's inheritance in wardship, and, if not, against the tenant, and the tenant was, in the latter case, to have to the value out of the land of the heir, 114-116.

Where the action was brought against husband and wife, and the wife was admitted to defend on her husband's default, she vouched the heir of the defendant's husband to warrant. The Sheriff returned that he could not be summoned, but he nevertheless

DOWER—cont.

less appeared, and entered into warranty as one who had nothing by descent. It was objected that, as he had not been summoned, he should not be admitted to warrant, but, as it could not be denied that he was the person who was vouched, judgment was given that the defendant should recover against him if he had assets, and if not against the tenant, and the tenant over, 184.

Judgment in, in a Court of Ancient Demesne, and writ of False Judgment thereon, 204-210. (See SCIRE FALSAS.)

The tenant vouched the husband's heir in the county in which the demand was, and in other counties, and he entered into warranty as one who had nothing by descent in the same county, without asking by what the tenant could bind him to warrant. Judgment was given that the defendant should recover against the heir, if he had assets in the same county, and, if no against the tenant, in which case the tenant was to recover over. It was afterwards prayed that the judgment might be amended because the heir warranted of his own free will, and not in virtue of his attorney's deed, in which case the judgment should be simply for the defendant to recover against the tenant, and the tenant over to the value. It was held that as judgment had been actually given it could not be amended, whether right or wrong, as the parties were out of Court, although the prayer was made in the same term and before the judgment had been entered on the roll, 328-330.

Fine admitted on writ of, 362-364.

The tenant vouched the husband's heir who was under age, but who appeared and warranted. The defendant, being questioned, said

DOWER—cont.

that the heir had assets by descent, and judgment was given that she should recover against the heir simply, 400-402.

If the husband's heir be vouched, and his surname in the voucher is in French, and in the process thereon in the equivalent Latin (as de Montagu and de Monte Acuto) it is not a variance which will effect a discontinuance, 420, 422-423.

If an infant be vouched as being out of wardship, when he is in fact in the wardship of the king, judgment will be given for the defendant to recover her dower against the tenant, and the vouchee will go quit of the voucher, 420, 422, 424.

Where the tenant vouched the husband's son and heir, and, on the appearance of the supposed vouchee, tendered the averment that it was not the same person, he was compelled to assign diversity of father or mother, and alleged that it was the son of a stranger, and not of the husband, who had appeared. Issue was joined on the replication that it was the same person that had been vouched, 538-540. [But see Y.B., Mich., 20 Edw. III., No. 78.]

Where the tenant pleaded that the defendant detained certain munitments which affected his inheritance, and that he was and always had been ready to render dower to her upon receipt of them from her, and she produced them in Court, and he accepted them, judgment was given that she should recover her dower against him, but that he should be pardoned in respect of amercement because he had appeared on the first day of Term, ready to render dower, 568-570.

Where the action was brought against husband and wife, they alleged that she had nothing, and the husband took the tenancy upon himself. He

DOWER—cont.

then vouched himself, by another surname, and his wife. The voucher was counterpleaded on the ground that the husband and wife held jointly, and that he was the same person. It was held that he need not answer as to being the same person, but only as to the joint tenancy, 584-586.

See WARRANTY.

DOZENERS:

decennarii or tithing-men, 528-536.

E**EJECTMENT FROM WARDSHIP :**

When the writ is brought against several persons, and one only appears, and process has issued to bring the others into Court, the plaintiff is not allowed to count against him before the appearance of the others, 440-442.

ELEGIT :

See EXECUTION.

ENTRY, *ad terminum qui præterit*:

See ABATEMENT OF WRITS.

ENTRY, *de quibus*:

The action having been brought by A. against B. on the ground of an alleged disseisin of A.'s father C. by B., it was pleaded by B. that his brother D. died seised, that, after his death, C., who was of the half-blood to D., abated on B.'s possession, and that B. ousted him. A. replied that his grandfather E. died seised, that C. entered as his son and heir, and was seised until disseised by B. It was then rejoined by B. that E. did not die seised, and this was held by the Court to be a good issue, 388-390.

ERROR:

On a writ of Error to reverse a judgment of execution on a *Scire facias* on fine of lands it is not necessary for the plaintiff in Error, before assigning the errors, to produce the fine on which the *Scire facias* was founded, 190-196.

ESCHEAT:

Where the writ was grounded on the outlawry for felony of one who held of the defendant, and it was pleaded that, before his outlawry, and before the commission of the felony, he had already forfeited to the King through having been adherent to the King's enemies, the defendant was nonsuited, 176-180; 181, note 1.

See ABATEMENT OF WRITS.

ESSOIN:

Where A. had sued an Appeal to the Court of Rome against B., the King's presentee, in respect of a church to which the King had recovered a presentation by judgment, and the King had sued a *Pone per radium* against A., the Sheriff returned *Non est inventus*. A. was nevertheless essoined, but the essoin was quashed because the writ had not been served, 118.

Where the attorney of a party had been essoined on one writ, and the party prayed to be admitted to defend his right on another writ, his presence was recorded, and the essoin cast for his attorney was quashed, 118-120.

Where an essoin was cast for a wife who had been admitted to defend her right on her husband's default, and there was no mention in the essoin of the fact that she had been so admitted, it was quashed, 134.

An essoin *de malo lecti* cannot be cast, with other essoins, on the common day, but must be cast at least three days earlier, 317.

ESSOIN—cont.

An essoin *de malo lecti* lies only on a writ of Right, and not on a writ of Aiel, 317.

One who casts an essoin *de malo lecti* is to be viewed by four knights, and if they find him sick, as alleged, they are to appoint a day for his appearance a year and a day after the day of view. If he is found to be not sick, his essoin is to be turned into a default, 317-319.

Where a cause has been adjourned into the Common Bench, by reason of foreign voucher in the city of London, the tenant may be essoined, 480-482.

Allowed after verdict, and before judgment thereon, in Waste, 486.

A common essoin is allowed for a tenant who has vouched, after the award of the *Sequatur suo periculo*, unless he has previously been essoined after voucher, 538.

ESTOPPEL:

Neither a plaintiff who has made a particular declaration, nor a defendant who has made a particular avowry, on a writ of Replevin, can vary it upon a writ of Second Deliverance, 15.

EXAMINATION:

See DECEIT.

EXCHANGE:

Arguments relating to the doctrine of exchange of lands, 54-64.

EXCHEQUER:

When the King's debtor, A., alleges in the Exchequer of Pleas that another person, B., is indebted to him in a certain sum, and prays that B. may answer to the King in respect of that sum as in part payment of his own debts to the King, B. is not permitted to wage his law in denial of his alleged debt to A. Nor can B., after having proffered his law, join issue to the country, but

EXCHEQUER—*cont.*

judgment is given for the King to recover against him the amount of his debt to A. in part payment of A.'s debt to the King, 16-20; 21, note 2.

Privilege of the Barons of the Exchequer and their servants in respect of trespasses committed against them, 202.

EXCOMMUNICATIO:

A writ of Prohibition and another writ, having been directed to a Bishop, were delivered to him by the King's messenger, whom the Bishop's Commissaries excommunicated for having delivered them. A writ of Contempt was thereupon brought in the names of the King and of the messenger against the Commissaries, to punish them for the contempt of the King, and to obtain damages for the messenger. The Commissaries pleaded first a disability in the person of the messenger—that he was an excommunicate, and therefore not in a condition to be answered, and made *profer* of the same Bishop's letter of excommunication. The Court held that, in the absence of anything to show the contrary, this excommunication must be regarded as identical with that for which the writ was brought, and that the defendants must answer. Thereupon a letter from the Archbishop of Canterbury was produced, on behalf of the defendants, to the effect that he had found, among the Acts of the Court of Arches in London, that the messenger was under various sentences of greater excommunication. Again the Court held that as the letter did not specifically assign any other cause of excommunication, it must be for the cause for which the action was brought, and that the defendants must answer. There was then a plea to the jurisdiction, on

EXCOMMUNICATIO—*cont.*

behalf of the Commissaries, that the Common Bench could not have cognisance in respect of the cause of any excommunication, which must be tried and decided in Court Christian. To this it was replied on behalf of the King that the excommunication was the ground of the action, which could not be prosecuted in any Court but the King's, and so the Court held. The Commissaries would not, when asked, make any other answer, and judgment was given against them as persons who made no defence, 214-232.

A letter from a Dean alleged to be exempt from the jurisdiction of the Ordinary, and to possess in his own person the jurisdiction of Ordinary, will not be accepted in proof of excommunication, and neither the seal nor the testimony of anyone but a Bishop can be accepted for the purpose as authentic, 378; 382.
See ATTACHMENT ON PROHIBITION.

EXECUTION:

Where an Abbot had recovered damages, and prayed execution by *Elegit*, it was granted by the Court after consideration, 96.

Against an Abbot by *Elegit*, 450.

Where a plaintiff has recovered damages in one county, A., and alleges that the defendant has nothing in that county whereof he can have execution, and prays an *Elegit* to be directed to the sheriff of another county, B., he cannot have it until the Court is apprised by a return of the Sheriff of A. that the defendant has nothing therein, 502-504.

Where an annuity had been recovered, and the plaintiff had sued a *Fieri facias*, and the Sheriff had returned that the defendant had nothing, the plaintiff could not have an *Elegit*

EXECUTION:

but only an *Alien Fieri Facias* in respect of the same matter, but was allowed to have an *Elysit* in respect of a subsequent term of the annuity. 554.

See SCIRE FACIAS.

EXECUTORS:

The provisions of the statute 9 Edw. III. St. 1. c. 3. do not apply where a person named as executor has declined to act, and has not administered. 158.

Where an action of Debt is brought against an executor, it is not sufficient for him to plead that the testator's goods did not come into his hands as executor, unless he shows in what other way they did come, but he must say absolutely that the goods never came into his hands. 158-159.

If executors bring a writ of Debt, and produce the debtor's obligation by which he has bound himself to them as executors, they need not produce the will to prove that they are executors, because the deed is sufficient evidence as between them and the debtor. 320.

EXTENT:

See STATUTE MERCHANT.

EXTRIN:

Judgment of Court of. *See REPLEVIN.*

FINES OR LANDS, &c.:

Examples of, admitted or refused, 115; 150, 420.

On writ of Dower by *licentia concordandi*, and the form of it, 362-364.

See ERROR.

FLINCHERY:

See ABATEMENT OF WRITS (Aiel.).

FORMEDON:

To an action of Formedon in the remainder it is a good plea that the supposed donor was never seised so that he could make a gift, because the action is taken entirely on the seisin of the donor. But it is otherwise in an action of Formedon in the descender, in which the gift itself must be traversed. 382.

In an action of Formedon in the descender in respect of a manor it was pleaded that the supposed donee had been seised of two acres of land as parcel of the manor, and had given them to A., who became seised thereof, and was so seised on the day of the purchase of the writ, and that A. was not named in the writ, which was consequently bad. Issue was joined on the question whether A. was seised of the two acres on the day on which the writ was purchased, 554-556.

FRANCHISE:

See LIBERTY.

F**FALSE JUDGMENT:**

When the record of a Court of Ancient Demesne is brought into the Common Bench in return to a writ of False Judgment, and the original writ is not brought with it, it is not a full record, and a writ issues to distract the bailiffs to send the original writ, 492-494.

See SCIRE FACIAS.

G**GAVELKIND:**

See COVENANT.

GREEN WAX:

Levying of the King's debts in virtue of Summons of the, within a Liberty, 238; 240; 242; 245, note 4; 246; 252.

GUARDIAN :

The warrant of a guardian is not of the same nature as a warrant of attorney, because it is a person of full age who appoints an attorney at his own peril, while a guardian is allowed to an infant by the Court, which will itself amend any verbal errors, 422.

H**HUE-AND-CRY :**

See LIBERTY.

J**JUDGMENT :**

See DOWER.

JURORS AND JURY :

See CHALLENGE ; TRESPASS.

K**KING, THE :**

There can be no final judgment against the King in respect of land, 312.
Or on a writ of Right of advowson, 416, 418.

But final judgment shall be given for him, 418.

There shall be no tender of the half-mark for enquiry as to the time of seisin, when the King is demandant in a writ of Right of Advowson, 416.

Held that in *Quare impedit* the King can maintain his action when it is brought in one county, and the church is in another county, 510.

But this was denied to be law by Hillary, J., 512.

See EXCHEQUER.

L**LIBERTY :**

Where the lord of a liberty (A.) has the franchise of having execution of writs by his bailiff, and the bailiff, in accordance with a precept from the Sheriff, proceeds to distrain, within the liberty, one of the resitants, for the King's debt, but is interrupted by another person (B.), the latter commits a trespass *ri et armis*, and A. will recover damages against B. It is no justification for B. to allege that he has, within the liberty, a manor in which there is a custom that whenever the bailiff of the liberty effects any distress for the Green Wax, or other money owing to the King, upon any tenant of the manor, the bailiff ought to take the distress to B.'s pound within the manor to remain there for three days and three nights, so that, if the tenant pays the money within the time, he can have his beasts quit, because such a custom could not be any profit to B., but rather the reverse, 236-256; 251, note 2.

The steward and bailiff of a manor which is within a liberty, and in which the lord of the liberty (A.), as alleged, has a several fishery, find another person (B.) fishing therein, and raise hue-and-cry upon him as for something done against the peace, and the bailiff of the liberty comes and attempts to attach B., and B. resists. B. pleads to an action of Trespass that he is lord of a certain manor, and has within that manor view of frankpledge, *abesse hoc* that A. has cognisance of anything touching view of frankpledge within that manor. He alleges also that the manor is situated upon the river in which he

LIBERTY—*cont.*

fished, and that the soil beneath the river *usque ad ager* is soil of that manor, and parcel thereof, *alique hoc* that he fished anywhere else within the liberty, or that the hue-and-cry was raised upon him anywhere else, or that he prevented the bailiff of the liberty effecting an attachment anywhere else. Judgment was given in favour of B., and A. took nothing by his writ, 236-236; 251, note 2.

See ABATENENT OR WRETS (Præcipe quod reddat).

LOST-BOX :

In an Appeal of Robbery the plaintiff, who was a citizen of London, accepted the wager of battle tendered by the defendant. An objection was raised on behalf of the citizens of London to the effect that the plaintiff ought not to be admitted to put himself on the trial by battle because it would be to the prejudice of their royal franchise that no battle should be waged against any of the citizens. The Court adjourned for consideration, 134-136.

Foreign voucher in the city of, 146.

M**MAINPRI-E :**

Where a defendant in Tre-pass has found mainprise, and cancelled or broken it, and been brought into Court by *Capias*, he cannot again be allowed to find mainprise on the same original writ before he has pleaded, but after pleading he may, 340-342.

Where a defendant in Account has appeared and denied the receipt of money, and issue has been joined thereon, and he has been let out on mainprise, and then made default, and judgment has been given that

MAINPRISE—*cont.*

be made account, and he subsequently produces a deed of release of all actions which is denied by the plaintiff, he may again be let out on mainprise because a new issue is to be tried, 456.

A defendant in Attachment or Prohibition, having, as alleged, caused citations to the Court of Rome to be made to the King's proctor to a church contrary to the King's Prohibition, was held to mainprise after pleading to issue; but the Court gave warning that should he make any further appeals or citations to Rome in the meantime, the manors would be held to ransom as the King's will, even though they should bring in his body on the appointed day, 524-525.

MASOR :

See REPLEVIX.

MESNE :

Where the declaration was that the plaintiff held of the defendant by fealty and rent, and the defendant pleaded that he had no fee or seignory in the land except a rent seek, and the plaintiff objected that the defendant could not be permitted to say that the rent was of any other kind than rent service without denying that he was seized of the plaintiff's fealty, the objection was not allowed, and the plaintiff had to aver that he held the tenements by the services alleged, and that the defendant was bound to acquit him, 234-236; 237, note 2.

A., being B.'s superior lord, distrains B.'s tenant, C., for homage and relief, and C. recovers damages against B. in an action of Mesne B., then brings an action of Mesne against A. as having been distrained for the damages recovered by C. *Quare can A. demand oyer of the record*, 318-320.

MISNOMER:

The tenant in a real action pleaded in abatement of the writ that her right name was Cecilia and not Celota as stated in the writ. The replication upon which issue was joined was that her right name was Celota and not Cecilia, and that she was known by the name of Celota, 558-560.

MORT D'ANCESTOR:

In an Assise of Mort d'Ancestor brought before Justices of Assise, the defendant (A.) pleaded that he had brought a writ of *Cessavit* against another person named (B.), on which he had recovered the tenu- ments, and that the estate of the plaintiff's ancestor was mesne between the date of the writ and the date of the judgment thereon, and he prayed judgment whether there ought to be an assise in such a case. The plaintiff replied that while the writ of *Cessavit* was pending, B. enfeoffed his ancestor, that his ancestor tendered the arrears of rent and all the services due to A., and that A. accepted them, and produced a deed to that effect. He, therefore, prayed that the assise might be taken. On A.'s rejoinder praying judgment whether the assise ought to be had, the matter was adjourned into the Common Bench. It was there argued that the receipt of the rent and services by A., while the *Cessavit* was pending, extinguished that action, and, in the end, the Court gave judgment that the assise should be taken. The record with the original writ and panel were accordingly returned to the Justices of Assise for that purpose, 308-316.

N**NAME:**

See ABATEMENT OF WRITS (Account).

NISI PRIUS:

A Justice of *Nisi prius* may amend his record after he has returned it into the Bench, if it is not sufficiently full, and may add to his original statement concerning the verdict, 402-404.

See DETINCE.

NONSUIT:

If a writ is brought by several *Principes* against several tenants, one of whom vouches, and one day is given on that *Principle* and another day on the others, and the defendant is non-suited on one of those others, it is not a non-suit with regard to all the *Principes*, though it would be if he had the same day on them all, 536-538.

See QUID JURIS CLAMAT.

NOVEL DISSEISIN:

Pleadings in Assise of, where the action was brought against a tenant in dower by three daughters of the husband—two by his first wife and one by his second wife divorced—who had been ousted by the guardian of the son of a fourth daughter by a third wife, which guardian had made the assignment of dower, 124-132.

Pleadings in, where the action was brought by husband and wife. The principal pleas of one of the defendants were that the husband had, by deed, released to him all the tenu- ments with certain exceptions, and that with regard to a part of what was excepted the wife had, while sole, executed a release to him. The replication touching the husband's

NOVEL DISSEISIN—cont.

alleged release was *Non est factum*, upon which issue was joined to the jurors of the assise, and the witnesses of the deed. As the date of the deed was in a county (A.) other than that in which the Assise was brought (B.), the *Venire* was directed to the Sheriff of A. to cause the witnesses to come, and in addition twelve jurors from the neighbourhood of the place in which it was alleged that the deed was executed. The reply touching the release alleged to have been executed by the wife while sole was that at the time of its execution she was the wife of the husband who was plaintiff with her. It was argued that this was insufficient without the addition of the words "and covert." The objection, however, was over-ruled, and issue was joined on the defendant's rejoinder that she was not the husband's wife on the day of the execution of the deed, and judgment of *capiatur jurata loco assise* was given, 276-282; 283, note 1; 285-288.

Challenge of the array and of the polls in Assise of, 486.

See ABATEMENT OF WRITS (*Scire facias*); ATTORNEY.

O**OUTLAWRY:**

Effect of the condition in a charter of pardon of, 430.

See PROTECTION.

P**PARLIAMENT:**

Petition in, 332-334.

PLFADING:

See APPEAL; ATTACHMENT ON PROHIBITION; COSINAGE; COVENANT; DABREIN PRESENTMENT; DEBT; EJECTMENT FROM WARDSHIP; ENTRY de quibus; ERCHERAT; EXCOMMUNICATION; EXECUTORS; FORMEDON; MESNE; MISNOMER; MORT D'ANCESTOR; NOVEL DISSEISIN; QUARE IMPEDIT; QUARE NON ADMITIT; QUID JURIS CLAMAT; REPLEVIN; SCIRE FACIAS; TRESPASS.

PONE:

See RIGHT, WRIT OF.

PRÆCIPITE QUOD REDDAT:

See ABATEMENT OF WRITS.

PROCESS:

A Bishop having brought a writ of Annuity against a clerk beneficed in his own diocese, and the Sheriff having returned that the clerk had no lay fee, the Bishop prayed a writ to himself to cause his own clerk to appear, and this was awarded, though the defendant prayed that the writ might be sent to the Metropolitan, 478-480.

PROTECTION:

Where a writ of Deceit was brought on the ground that a Protection had been produced for a party who was thereby supposed to be at Berwick on Tweed, when he was in fact abiding in England, the same Protection was produced and allowed because the time of protection had not expired, 26; 27, note 1.

PROTECTION—cont.

A defendant in Account, having been outlawed, obtained a charter of pardon of outlawry, whereupon the usual *Scire facias* issued to warn the plaintiff to appear. Issue was joined in the Common Bench, but the defendant failed to appear at *Nisi prius*. The Justice did not take the inquest by default at *Nisi prius*, but afterwards recorded the default in the Common Bench. A Protection was there produced for the defendant. It was objected that a Protection did not lie, that the charter of pardon had lost its force, and that a *Capias utlagatum* should issue against the defendant. It was held that the inquest ought to have been taken on the defendant's default at *Nisi prius*, but, as that had not been done, the defendant was still a party on the original writ of Account, and that the Protection must be allowed, 564-568.

POVISIONS:

Papal, 522-524; 526.

Q**QUALIS JUS:**

Writ of, where a Prior had recovered, after default of the tenant, on a *Quod permittat* in respect of suit of villeins to a mill, 360.

QUARE IMPEDIT:

The King's claim to present was that a Prior (A.) had been seised of the advowson and presented, and that the King had, after that Prior's death, seized the temporalities of the Priory into his hand, and had demised them to the Sub-prior and Convent for the period of the vacancy, reserving to himself the

QUARE IMPEDIT—cont.

fees and advowsons, that a succeeding Prior (B.) intruded upon the temporalities so demised, that upon B.'s resignation the King again seized the temporalities and demised them to the Sub-prior and Convent, that the existing Prior (C.) intruded upon them, the advowsons still remaining in the King's hand, because neither B. nor C. had sued them out of the King's possession, and that in the meantime the vicarage had become void by the resignation of A.'s presentee. The defendant would have pleaded that the vicarage was not void while the temporalities, fees, and advowsons were in the King's hand, but was compelled to say that it did not become void between the time of the King's first seizure and the restitution. There was a replication that there was one voidance by resignation and another by death (the names being mentioned) between the two times, and upon this issue was joined, 20-24; 25, note 5.

The King claimed, against a Bishop, a presentation, on the ground that King John, having been seised of the advowson, had presented to the church, that King John had given the advowson to a Prior in frankalmogin to hold of him and his heirs, and that the Prior had afterwards aliened to the Bishop's predecessor in mortmain without license. The Bishop in his plea traversed the seisin of King John, the admission of a presentee on his presentation, the gift to the Prior, and the alienation without license, 102-104; 105, note 1. After adjournment for consideration, it was held by the Court that averments to a jury on the four points could not be admitted, and that the Bishop could have an averment on one only of the four at his election. He elected to plead that

QUARE IMPEDIT—*cont.*

the presentee was not admitted on King John's presentation. It was then objected, on behalf of the King, that the Bishop could not, after adjournments, vary his first answer. After further adjournments, however, there was a replication, on behalf of the King, that the Prior did alien the advowson without license, and upon that issue was joined, 105, note 5; 290-292.

Where the King's title was that A. had been seised of the advowson, and had presented to the church, and had aliened the advowson in mortmain without the King's license, and the plea was that the supposed presentee was not admitted on A.'s presentation, the defendant was not allowed to vary that plea afterwards by traversing the other parts of the King's title, although he had made a protestation that he did not admit them, 108-114.

Further pleadings thereon, 338-342. The plaintiff's alleged ground of action was that a composition had been made between his ancestor and the predecessor of the defendant (an abbess) to the effect that the abbess and her successors should present twice and the plaintiff's ancestor and his heirs at every third turn, and that presentations had been subsequently made in accordance with the composition, the names of all the presentees being mentioned. The defendant (not admitting the composition) pleaded that she and her predecessors had been seised of the entire advowson from time immemorial, alleging that a presentation supposed by the plaintiff to have been made by his ancestor had in fact been made by the defendant's predecessor. Issue was joined on the plaintiff's replication that the presentee had been admitted and instituted on the presentation of

QUARE IMPEDIT—*cont.*

the plaintiff's ancestor, 180-184; 185, notes 1 and 2.

Where a plaintiff (A.) brought his writ against two persons (B. and C.) and supposed by his writ and the commencement of his declaration that the right to present belonged to himself alone, but supposed by the conclusion of his declaration that it belonged to himself and B., it was held that he could not take anything by his writ by reason of the variance. B. ought to have been named as plaintiff with A. and named as defendant also. B., however, not having made a title for himself in his plea, could not have a writ to the Bishop on the ground that A. had made a title for him in the declaration, because the title was to A. and B. in common, 262-270.

Where the King claimed a right to present on the ground of an alienation in mortmain to a Prior, without license, and the alienation was denied, and a title in the Prior by prescription was pleaded, it was alleged on behalf of the King that the alienation was made by fine in the time of King Edward I., and in support of the allegation *propter* was made of a fine of the time of Henry III. *Quare* could the fine be accepted as proof of the alienation, 398-400.

Where the King claimed a presentation on the ground that the temporalities of an Abbey had come into the hands of his grandfather on the decease of an Abbot, and it was pleaded and not denied that the King had already presented, and that his presentee was parson imparsonee, judgment was nevertheless given that the King should have his presentation *hac vice*, and should have a writ to the Bishop, 442-446; 447, note 2.

QUARE IMPEDIT—cont.

No plea to be begun in, before the fourth day of Term, 454-456.

Mode of proceeding where there are cross actions, one by A. against B. and C., and the other by B. against A., and A. wishes to disavow his action after continuance, 454-460.

Where A. brings an action against B., and B. another against A., and A. in answering B. claims the advowson, he need not make a separate count on his own writ, 464-468.

Pleadings in, where the plaintiff claimed the presentation in virtue of a gift from his father to himself in fee, and where the two defendants alleged that the father died seised of certain land to which the advowson was appendant, that the land was partible among male heirs, and that it and the advowson therefore descended not to the plaintiff alone but to him and his brothers, the defendants, 460-478.

A mistake in a statement of descent from co-parceners does not abate a declaration for the King, when it does not vitiate the King's title, 508-510.

A plea in abatement of the count or declaration precedes a plea in abatement of the writ, 510.

In respect of a presentation to a precentorship, 526-528; 527, notes 1 and 4; 529, note 1.

See ABATEMENT OF WRITS; KING, THE.

QUARE NON ADMISIT:

Pleadings in, with special reference to the question whether a Bishop who has, in a *Quare impedit*, made no claim except as Ordinary, can in a subsequent *Quare non admisit* allege plenarty of the church at the time at which he received the King's writ requiring him to admit, 26-38.

Pleadings in, where the King had recovered against A. the presentation to an Archdeaconry by default on a

QUARE NON ADMISIT—cont.

writ of *Quare impedit* in which no title had been inserted, and where the King had another writ of *Quare impedit* pending against B., the defendant in the *Quare non admisit*, in which writ also no title had been inserted, and where B. alleged that neither A. nor any of his predecessors or ancestors had any interest in the archdeaconry except as archdeacon, against whom a writ of *Quare impedit* did not lie, 162-170

The action having been brought by the King against the Archbishop of York, the latter pleaded disability in the person of the King's presentee, alleging that he was not a clerk, but a layman and illiterate. On behalf of the King the averment was tendered that the presentee was able, and a fit person, and sufficiently literate. It was then argued, on the one hand, that the question could not be tried by a jury, but was one for decision by a Court Christian. It was argued on the other hand that it could not be sent for decision by the Archbishop, who was a party in the cause, nor to the Dean and Chapter, who were the Bishop's subordinates. The Court adjourned for consideration, but their judgment does not appear. The King, however, afterwards sent his letters patent to the Court, by which he revoked all previous collations to the benefice, and gave it to another nominee, 362-370.

QUID JURIS CLAMAT:

Where the writ was brought against two persons, A. and B., and it was pleaded on behalf of A. that she held nothing then or on the day of the levying of the fine, and on behalf of B. that A. being seised of the tenements before the levying of the fine, by virtue of a gift to her and her husband in frankmarriage,

QUID JURIS CLAMAT—*cont.*

leased her estate to him after the death of her husband without issue, and (by way of protestation) that the donor had released all right to him, the plaintiff was compelled to maintain the note of the fine, and issue was joined on the averment that A. and B. held jointly. The defendants were not permitted to appoint an attorney, as they prayed to do on the ground that a fee was claimed, because the claim was not a part of the plea, 2-4.

When the writ is sued by two persons, and one of them does not appear, both are non-suited, because there cannot be any severance in a *Quid juris clamat*, 118.

QUOD PERMITTAT :

In respect of suit of villeins to a mill, 360.

QUOD PERMITTAT DE-EXALTARE :

See VIEW.

QUO WARANTO :

See REPLEVIN.

R

RAVISHMENT OF WARD :

Writ of and pleadings thereon, 540-546.

See WARDSHIP.

RECEIPT :

Where in an action of Waste husband and wife had pleaded "no waste committed," and at *Nisi prius* the husband made default, and a jury found the waste, and the plaintiff afterwards prayed judgment in the Common Bench, the wife was there admitted to defend her right, 134-136; 446-448.

Where land had been given to a man and his wife and the heirs of their

RECEIPT—*cont.*

bodies, and the husband died, and an action demanding the land was brought against the wife and she made default, and the heir in tail prayed to be admitted to defend his right, he was not admitted because the wife had a fee tail. Seisin of the land was awarded to the defendant, 136.

REPLEVIN :

When a plaintiff has been non-suited upon the original writ of Replevin, and the defendant has taken the cattle a second time, and the plaintiff has upon the original writ alleged that he held only a moiety of certain tenements of the defendant, and confesses upon the writ *de Secunda Deliberatione* that he holds two thirds of them, and he has not offered the services due for the two thirds, the defendant has the Return of the cattle irreplevisable, 6-14; 15, note 11.

If one of two defendants, being the principal, denies the taking, and the other as his bailiff makes cognisance for a cause assigned, the bailiff cannot have aid of his principal, but may excuse himself with regard to damages by his cognisance, to which the plaintiff will have to plead, 40-44; 45, note 1.

Where the avowry was for homage and fealty in arrear, and the plaintiff alleged that he had tendered the homage and fealty before the taking of the beasts, issue was joined on a traverse of that allegation, 44-48; 49, note 7.

Avowry for a relief alleged to be due after the installation of a Prior following upon the death or cession of his predecessor, 50-52.

The avowry being for services in arrear, it was pleaded that the avowant's alleged seignory was mesne and had been extinguished

REPLEVIN—*cont.*

in the following way. A. was lord paramount, the avowant's ancestor B. held of A., and enfeoffed C. to hold of him (B.) by certain services. The tenements held by C. came into the hands of D. and he enfeoffed the lord paramount A., whose estate in the tenements the plaintiff in Replevin (E.) alleged that he had. It was held by the Court that, if the facts were as alleged, the mesne seignory had been extinguished. The avowant replied that, before the statute *de prærogativa Regis*, A. had enfeoffed one F. of the tenements, to hold of A. by the services claimed in the avowry, that F. had enfeoffed E.'s ancestor, by whose hand A. was seized of the services, and that A. afterwards granted the services to the avowant's ancestor, to whom E.'s ancestor attorned, and that so the seignory accrued to the avowant at a later time. E. rejoined that A. enfeoffed F. of the tenements before the statute *de prærogativa Regis*, to hold of A. by less services than those mentioned in the avowry, and made *provert* of A.'s charter to that effect, but he was compelled to traverse the alleged attornment, and issue was joined upon that traverse, 86-90; 322-326; 327, note 1.

Where the defendant avowed the taking, at a place other than that mentioned in the plaint, for a rent charge created by a deed dated in Wales, the Court disallowed a plea to the jurisdiction with regard to the deed, and issue was joined as to the place of taking, 98-102; 108, note 1.

Where the avowry was for services in arrear, on the ground that the manor to which they were regardant had been granted to the avowant to whom the plaintiff's predecessor (a Prior) attorned, the plaintiff was allowed to plead that the supposed

REPLEVIN—*cont.*

grantor was not seized of the manor as supposed in the avowry, without traversing the grant, or the attornment, or the statement that the services were parcel of the manor; and issue was joined on the question whether the supposed grantor was seized of the seignory and services, 170-174; 175, note 1.

Where the avowry was for services in arrear, the seisin of which by the avowant's father was alleged to have been by the hand of the avowant's mother, and the plaintiff pleaded that they were granted to the avowant's father and mother, and their heirs, by fine, and the avowant in reply tendered the averment that his father was seized by the hand of his mother before marriage, the averment was accepted, and issue was joined thereon, 174-176.

Where the avowant has joined issue on the plea "out of his fee," and afterwards makes default, and the jury is ready at the bar on the second day after issue joined, their verdict is taken on his default, but, if on the first day, he is distrained to hear the verdict, 236.

Where the avowry was for services granted to the avowant's ancestor to whom the plaintiff's father attorned, it was held that the avowant need not produce a specialty to show the grant, as the attornment was sufficient, 330.

Cognisance was made by a bailiff of an honour in Berks, to which, as alleged, there was regardant a Court Leet in a manor or vill in Bucks, within which vill the plaintiff was residant. The plaintiff did not attend the Court Leet, as required by due summons, and was therefore amerced, and he was distrained for the amount at which the amercement had been affeered. The plaintiff pleaded a record of the Court of

ANSWER—ONE

John Bore reporting that he comes by virtue of the King as in the Liberty and as a witness. The defendant pleads that in the recent past namely 7th July he entered a town in Lancashire where he happened to witness the action of a Sheriff of the County of Lancashire who had a writ of distress and he perceived that the Sheriff intended to have service of it. The court was of opinion that the Sheriff of the County of Lancashire had been lawfully called out to do a service in another county and the plaintiff was informed that the writ was discharged.

Whereupon the plaintiff asked the defendant if he would make the plaintiff understand that the plaintiff's action was a judgment that he had no service made to him from a court whereby they were required. The defendant then answered that in right time as was the custom and usage was joined in the plaintiff's judgment that it was a judgment very largely in favor of the plaintiff and the defendant.

He also said that a taking of lands by the King of England in the time of King John had granted the same to the burgesses who in the town had by prescription and usage the afterwards granted it to him by King John. It was pleaded that in the reign of Richard I in the year 1257 before Justice in Eyre the town had claimed certain franchises including the market by virtue of a charter of King John granting it all the franchises enjoyed by the burgesses of another town (B.). and that because the franchises of the town A. were not expressly mentioned in its own charter and it could not affirm any title of prescription, the Court had given judgment that they should be

ANSWER—TWO

said that the King's bailiff and sheriff it was pleaded that they should not be concerned by rule of prescription whereby in the course of the hundred. The regulation was that as the bailiffs of the town had not a day or hours for obtaining or trying any franchises, and the plaintiff had not informed them they had a hundred in the town or that the taking of the franchises was for the cause alleged, they were entitled to judgment and a return of the franchises. The judgment was to the same effect as the prior. Judgment was given for the defendant for the reasons stated in their regulation. 534-536.

The attorney was asked if the defendant had been apprised as being burgess or constable of a particular tithing to levy a fifteenth which had been granted to the King, from this tithing and from all persons who had been accustomed to contribute with that tithing, and that he had taken certain beasts because the plaintiff refused to pay. The plaintiff pleaded that neither he nor any other person whose estate he had was ever accustomed to pay any such tax with persons of that tithing. Issue was joined on the regulation that he and all those whose estate he had had always been accustomed to give and contribute to such taxes with the men of that tithing for lands and tenements and for goods and chattels therein existing, as supposed in the attorney. 535-536.

RIGHT. WITNESS:

Defendant may proffer himself on the first day of Term, on tenant's default, and demand judgment. 456.

Wager of Battle on, 482-486.

Half-mark for the time on, 540.

RIGHT, WRIT OF—cont.

When a writ of Right patent is removed from the court of the lord into the Common Bench by *Recordari* the writ itself remains in the possession of the plaintiff, and, if the plaintiff cannot produce it, judgment is given for the tenant, 560-562.

When the writ of Right patent is removed by Tolt out of the court of the lord into the county court, and out of the county court into the Common Bench by *Pone*, it is not necessary for the Sheriff to return the Tolt into the Common Bench, as the *Pone* is his warrant for the removal, 582-584.

RIGHT OF ADVOWSON:

Mode of joining the mise on writ of, 412-418.

Half-mark for the time in, 416.

S**SCIRE FACIAS:**

(On Fine.) Pleadings in, where the King had interfered in order to prevent the dismemberment of a barony, and it was alleged that an exchange had been effected so as to give an equivalent to the parties who would have taken an estate under the fine, 54-64.

Where the limitation was to a husband and his wife and the husband's heirs, and there was issue A., who had issue B., and B. sued a *Scire facias* to have execution, the tenant pleaded that he was the assign of one C. who had been enfeoffed by A., and this was not denied. The Court gave judgment, notwithstanding the statute of Westm. 1, c. 45, that the defendant should take nothing by his writ, and the judgment was

SCIRE FACIAS—cont.

affirmed when a writ of Error was sued in the King's Bench, 438-440.

See AID; ERROR.

(On Recognisance.) When the process is against ter-tenants after the death of the recognisor, they must be individually named in the writ, and there cannot be a writ to warn the ter-tenants in general terms, 76.

(To have execution of a judgment for the recovery of the value of issues of land on reversal, on a writ of False Judgment, of judgment given in a Court of Ancient Demesne.) The recovery had been on a writ of Dower, and the defendant in the *Scire facias* pleaded that she had in the same Court of Ancient Demesne recovered the land by a little writ of Right brought in the nature of a *Cui in vita* on a title earlier than the judgment to recover in Dower or its reversal. It was held that she was chargeable personally, as the execution prayed was not of the land, but of damages in lieu of the issues, and execution was awarded accordingly, 204-210.

(To have execution of damages recovered in Assise of Novel Disseisin.) *See ABATEMENT OF WRITS.*

SECOND DELIVERANCE:

See ESTOPPEL; REPLEVIN.

SEIGNORY :

If there be lord paramount (A.), mesne holding of him (B.), and tenant in demesne (C.) holding of the mesne, and A. the lord paramount purchase C.'s estate, the mesne seignory is extinguished, 88 ; 325, note 1.

SEVERANCE:

See QUID JURIS CLAMAT.

SHERIFF:

See DECEIT.

SHREIF - SHREIF

When the King was present and the Sheriff received him, some of certain persons were sent, the instruments charged that they were armed, and passed that they might be seized, as they did not appear to answer to the King or his officers. This was granted, notwithstanding the Sheriff's refusal, 49.

When a Sheriff received a Capias requiring that he had taken the person and sent him towards the Sheriff's custody, without the person being present in force, the Sheriff was discharged, because he could not send the person taken in sufficient custody, and it cannot be understood if and how such a writ can be effective in time of peace, 44.

STATUTE WOOD.

- 3 Edw. I (Westm. 1, c. 4). 50.
- 6 Edw. I (Hibard), c. 12. 234. 49.
- 9 Edw. I (Actv Stat. Godec.), 128. 49.
- 18 Edw. I (Westm. 2), c. 3. 129.
- c. 374. 374.
- c. 45. 434.
- 13 Edw. I (Wynter), c. 4. 254.
- 14 Edw. I (Quia emptores), c. 14.
- 35 Edw. I (De Apparatu Religione)... otherwise called the Statute of Canterbury, c. 4. 39.
- De Prerogativa Regis.* 50. 324; 325. note 3; 327. note 7.
- 2 Edw. III., c. 8. 490.
- 6 Edw. III., c. 12. 490.
- 9 Edw. III., St. 1, c. 3. 158.
- 14 Edw. III., St. 1, c. 14. 490.

STATUTE MERCHANT:

If the obligor's lands are extended at a less sum than they are worth, he cannot have a re-entent, because as soon as the debt and costs have been levied, he can have a writ of Account, and regain possession of his land, 428.

See AUDITIA QUERELA.

SUITE, THE KING'S:

See ATTACHMENT OF WRETS (Escheat).

T**TAXES:**

See BONNET, WRETS OF.

TEARMASTOR:

Jurors of 502.

TERVARY:

Where the action was for cutting and carrying off trees, the defendant pleaded that the plaintiff's predecessor (an Abbot) had leased the manor to him and his brother and the survivor of them for their lives, and that, his brother being dead, he was seized of the freehold. The plaintiff, not admitting the lease of the manor, replied that he found his church seized of the wood in which the wood was cut. The defendant rejoined that he was seized of the wood as parcel of the manor, wherefore he that the Abbot was seized thereof as of freehold, whereupon issue was joined, 52-54.

Where the action was for driving off a cow and a calf belonging to the plaintiff, the defendant pleaded that he drove the cattle of certain executors, whose servant he was, to a certain place, for the purpose of taking an inventory, and that the cow and calf could not at the time be separated from them, but that he afterwards drove the cow and calf back to the place in which they had been found, and that the plaintiff was in possession of them. The plaintiff replied that the defendant had taken and detained them, and had possession of them. Issue was joined on the defendant's rejoinder that he had not taken them otherwise than

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as he had stated, and had not possession of them, 82-86; 87, note 1.

Process in, against a clerk, 200.

Where the action *quare clausum fregit* was brought by the Master of a Hospital, and the defendant pleaded that he and not the plaintiff was Master by collation, and the plaintiff replied that he and not the defendant was Master, the issue was tried by jury, and judgment was given accordingly, but a writ of Error followed, 378-382; 383, note 1.

There were several defendants, one of whom (B.) pleaded Not Guilty in one term, and another (C.) in a subsequent term. The *Distringas juratores* with regard to B. was returned on one day, and the *Habeas corpora juratorum* with regard to C. on a later day in the same term, and an entry was made on the roll that the jury between A., plaintiff, and B. and C., defendants, was put in respite, *Nisi prius*, &c. At *Nisi prius* one jury was taken from the two panels and gave a verdict for the plaintiff. When he prayed judgment on the verdict, it was objected that there had been a discontinuance, and, though it was found that the names were the same in both panels, the Court adjourned to consider its judgment, 434-438.

Where the plaintiff alleged assault and battery, the defendants pleaded that they acted only in self-defence, and issue was joined on the plaintiff's replication that they committed the trespass *contra pacem, et ex injuria sua propria*, 500-502; 503, note 4.

Where it was alleged that corn had been tortiously cut and carried off, and the defendant justified on the ground that he had only assisted a third person, the freeholder, to cut the corn, it was argued on behalf of the plaintiff that such a plea did not

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lie in the defendant's mouth, but that the latter ought to have pleaded the general issue Not Guilty. In the end, however, the replication was that the defendant had cut the corn tortiously, as the plaintiff had made plain, 570-572.

Where the action was brought against A. and his wife, B., and the alleged trespass was that of cutting and carrying off corn and hay, justification was pleaded on the ground that B., while sole, granted and demised to C. by indenture all her dower to which she was entitled out of the manor of D. and out of the demesne lands therein which C. had been accustomed to till, to hold until the full age of E. son and heir of B.'s first husband F., at a certain rent payable at certain terms, on condition that B. might enter upon the lands if the rent should be in arrear for a fortnight after the terms mentioned. C., being seised (*seisitus*), bequeathed (*legavit*) his estate to his brother G. by will, and G., being seised, demised his estate to the plaintiff, E. being all the time and still under age. The rent was in arrear for four of the terms mentioned and a fortnight after the last of them, and for that reason A. and B. entered, and cut the corn, &c., growing upon the land, in accordance with the indenture. The replication was that F. was seised of the whole of the manor, which he held of H. by knight service, and died seised, that H. entered by right of wardship (E. being underage), and afterwards demised the manor to C. to hold until E.'s full age, that C. bequeathed his estate in the manor to G. who demised his estate in the manor to the plaintiff, *ab eque hoc* that B. was seised of a third part of the land in which the trespass was committed, as dower separated

TRESPASS—cont.

from the other two parts, before the day of the lease. The rejoinder, upon which issue was joined, was that B. was seised of the third part of the land as dower, in which land the plaintiff supposed the trespass to have been committed, and granted it to C. by her deed, and C. became seised thereof by transmutation of possession in virtue of the deed, 572-582.

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U.**USURY**

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V**VARIANCE:**

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Where an action was brought against husband and wife, and the husband

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Of grantor of reversion by grantee who had joined himself with the tenant in mid, 536.

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WARRANTY:

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WASTE:

A. brought an action of Waste against B. in the following circumstances. C., being seised of the tenements, demised them to B. for the life of D., and afterwards granted the re-

WASTE—cont.

version to E. in fee, and E. subsequently granted it to C. for C.'s life, with remainder to A. in fee, and B. attorned to A. It was pleaded that C. to whom E. had granted the reversion for C.'s life, with remainder to A. in fee, was still living, and that no action of Waste lay for the remainder-man during C.'s life. The judgment is not stated either in the record or in the report, 342-346.

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5. FASCICULI ZIZANIORUM MAGISTRI JOHANNIS WYCLIF CUM TRITICO. Ascribed to THOMAS NETTER, of WALDEN, Provincial of the Carmelite Order in England, and Confessor to King Henry the Fifth. *Edited by the Rev. W. W. SHIRLEY, M.A., Tutor and late Fellow of Wadham College, Oxford. 1858.*

This work gives the only contemporaneous account of the rise of the Lollards.

6. THE BUIK OF THE CRONICLIS OF SCOTLAND; or, a Metrical Version of the History of Hector Boece; by WILLIAM STEWART. Vols. I.-III. *Edited by W. B. TURNBULL, Barrister-at-Law. 1858.*

This is a metrical translation of a Latin Prose Chronicle, written in the first half of the 16th century. The narrative begins with the earliest legends and ends with the death of James I. of Scotland, and the "evil ending of the traitors that slew him." The peculiarities of the Scottish dialect are well illustrated in this version.

7. JOHANNIS CAPGRAVE LIBER DE ILLUSTRIBUS HENRICIS: *Edited by the Rev. F. C. HINGESTON, M.A. 1858.*

The first part relates only to the history of the Empire from the election of Henry I. the Fowler, to the end of the reign of the Emperor Henry VI. The second part is devoted to English history, from the accession of Henry I. in 1100, to 1446, which was the twenty-fourth year of the reign of Henry VI. The third part contains the lives of illustrious men who have borne the name of Henry in various parts of the world.

- 8. HISTORIA MONASTERII S. AUGUSTINI CANTUARIENSIS**, by THOMAS OF ELMHAM, formerly Monk and Treasurer of that Foundation. Edited by CHARLES HARDWICK, M.A., Fellow of St. Catherine's Hall, and Christian Advocate in the University of Cambridge. 1858.

This history extends from the arrival of St. Augustine in Kent until 1191.

- 9. EULOGIUM (HISTORIARIUM SIVE TEMPORIS)**: Chronicon ab Orbe condito usque ad Annum Domini 1366; a monacho quodam Malmesbiriensi exaratum. Vols. I.-III. Edited by F. S. HAYDON, B.A. 1858-1863.

This is a Latin Chronicle extending from the Creation to the latter part of the reign of Edward III., with a continuation to the year 1413.

- 10. MEMORIALS OF HENRY THE SEVENTH**; Bernardi Andreæ Tholosatis Vita Regis Henrici Septimi; necnon alia quædam ad eundem Regem Spectantia. Edited by JAMES GAIRDNER. 1858.

The contents of this volume are—(1) a life of Henry VII., by his poet Laureate and historiographer, Bernard André, of Toulouse, with some compositions in verse, of which he is supposed to have been the author; (2) the journals of Roger Machado during certain embassies to Spain and Brittany, the first of which had reference to the marriage of the King's son, Arthur, with Catharine of Arragon; (3) two curious reports by envoys sent to Spain in 1505 touching the succession to the Crown of Castile, and a project of marriage between Henry VII. and the Queen of Naples; and (4) an account of Philip of Castile's reception in England in 1506. Other documents of interest are given in an appendix.

- 11. MEMORIALS OF HENRY THE FIFTH**. I.—Vita Henrici Quinti, Roberto Redmanno auctore. II.—Versus Rhythmici in laudem Regis Henrici Quinti. III.—Elmhami Liber Metricus de Henrico V. Edited by CHARLES A. COLE. 1858.

- 12. MONUMENTA GILDHALLÆ LONDONIENSIS**; Liber Albus, Liber Custumarum, et Liber Horn, in archivis Gildhallæ asservati.

Vol. I., Liber Albus.

Vol. II. (in Two Parts), Liber Custumarum.

Vol. III., Translation of the Anglo-Norman Passages in Liber Albus, Glossaries, Appendices, and Index.

Edited by HENRY THOMAS RILEY, M.A., Barrister-at-Law. 1859-1862.

The *Liber Albus*, compiled by John Carpenter, Common Clerk of the City of London in the year 1419, gives an account of the laws, regulations, and institutions of that City in the 13th, 13th, 14th, and early part of the 15th centuries. The *Liber Custumarum* was compiled in the early part of the 14th century during the reign of Edward II. It also gives an account of the laws, regulations, and institutions of the City of London in the 12th, 13th, and early part of the 14th centuries.

- 13. CHRONICA JOHANNIS DE OXENEDES**. Edited by SIR HENRY ELLIS, K.H. 1859.

Although this Chronicle tells of the arrival of Hengist and Horsa, it substantially begins with the reign of King Alfred, and comes down to 1292. It is particularly valuable for notices of events in the eastern portions of the kingdom.

- 14. A COLLECTION OF POLITICAL POEMS AND SONGS RELATING TO ENGLISH HISTORY, FROM THE ACCESSION OF EDWARD III. TO THE REIGN OF HENRY VIII.** Vols. I. and II. Edited by THOMAS WRIGHT, M.A. 1859-1861.

- 15. The "OPUS TERTIUM," "OPUS MINUS," &c. of ROGER BACON.** Edited by J. S. BREWER, M.A., Professor of English Literature, King's College, London. 1859.

- 16. BARTHOLOMÆI DE COTTON, MONACHI NORWICENSIS, HISTORIA ANGLICANA**, 449-1298; necnon ejusdem Liber de Archiepiscopis et Episcopis Angliae. Edited by HENRY RICHARDS LUARD, M.A., Fellow and Assistant Tutor of Trinity College, Cambridge. 1859.

- 17. BRUT Y TYWYSOGION**; or, The Chronicle of the Princes of Wales. Edited by the Rev. JOHN WILLIAMS AB ITHEL, M.A. 1860.

This work, written in the ancient Welsh language, begins with the abdication and death of Caedwalla at Rome, in the year 681, and continues the history down to the subjugation of Wales by Edward I., about the year 1282.

18. A COLLECTION OF ROYAL AND HISTORICAL LETTERS DURING THE REIGN OF HENRY IV. 1399-1404. *Edited by* the Rev. F. C. HINGESTON, M.A., of Exeter College, Oxford. 1860.
19. THE REPRESSOR OF OVER MUCH BLAMING OF THE CLERGY. By REGINALD PECCOCK, sometime Bishop of Chichester. Vols. I. and II. *Edited by* the Rev. CHURCHILL BABINGTON, B.D., Fellow of St. John's College, Cambridge. 1860.
 The author was born about the end of the fourteenth century, consecrated Bishop of St. Asaph in the year 1444, and translated to the see of Chichester in 1450. His work gives a full account of the views of the Lollards, and has great value for the philologist.
20. ANNALES CAMBRIÆ. *Edited by* the Rev. JOHN WILLIAMS AB ITHEL, M.A. 1860.
 These annals, which are in Latin, commence in 447 and come down to 1288. The earlier portion appears to be taken from an Irish Chronicle used by Tigernach, and by the compiler of the Annals of Ulster.
21. THE WORKS OF GIRALDUS CAMBRENSIS. Vols. I.-IV. *Edited by* the Rev. J. S. BREWER, M.A., Professor of English Literature, King's College, London. Vols. V.-VII. *Edited by* the Rev. JAMES F. DIMOCK, M.A., Rector of Barnburgh, Yorkshire. Vol. VIII. *Edited by* GEORGE F. WARNER, M.A., of the Department of MSS., British Museum. 1861-1891.
 These volumes contain the historical works of Gerald du Barry, who lived in the reigns of Henry II., Richard I., and John. The *Topographia Hibernica* (in Vol. V.) is the result of Giraldus' two visits to Ireland, the first in 1183, the second in 1185-6, when he accompanied Prince John into that country. The *Expugnatio Hibernica* was written about 1188. Vol. VI. contains the *Itinerarium Cambriae et Descriptio Cambriae*; and Vol. VII., the lives of St. Remigius and St. Hugh. Vol. VIII. contains the Treatise *De Principum Instructione*, and an index to Vols. I.-IV. and VIII.
22. LETTERS AND PAPERS ILLUSTRATIVE OF THE WARS OF THE ENGLISH IN FRANCE DURING THE REIGN OF HENRY THE SIXTH, KING OF ENGLAND. Vol. I., and Vol. II. (in Two Parts). *Edited by* the Rev. JOSEPH STEVENSON, M.A., Vicar of Leighton Buzzard. 1861-1864.
23. THE ANGLO-SAXON CHRONICLE, ACCORDING TO THE SEVERAL ORIGINAL AUTHORITIES. Vol. I., Original Texts. Vol. II., Translation. *Edited and translated by* BENJAMIN THORPE, Member of the Royal Academy of Sciences at Munich, and of the Society of Netherlandish Literature at Leyden. 1861.
 There are at present six independent manuscripts of the Saxon Chronicle, ending in different years, and written in different parts of the country. In this edition, the text of each manuscript is printed in columns on the same page, so that the student may see at a glance the various changes which occur in orthography.
24. LETTERS AND PAPERS ILLUSTRATIVE OF THE REIGNS OF RICHARD III. AND HENRY VII. Vols. I. and II. *Edited by* JAMES GARDINER, 1861-1863.
 The principal contents of the volumes are some diplomatic Papers of Richard III., correspondence between Henry VII. and Ferdinand and Isabella of Spain; documents relating to Edmund de la Pole, Earl of Suffolk; and a portion of the correspondence of James IV. of Scotland.
25. LETTERS OF BISHOP GROSSETESTE. *Edited by* the Rev. HENRY RICHARDS LUARD, M.A., Fellow and Assistant Tutor of Trinity College, Cambridge. 1861.
 The letters of Robert Grosseteste range in date from about 1210 to 1253. They refer especially to the diocese of Lincoln, of which Grosseteste was bishop.
26. DESCRIPTIVE CATALOGUE OF MANUSCRIPTS RELATING TO THE HISTORY OF GREAT BRITAIN AND IRELAND. Vol. I. (in Two Parts), Anterior to the Norman Invasion. (*Out of Print*); Vol. II., 1066-1200; Vol. III., 1200-1327. By Sir THOMAS DUFFUS HARDY, D.C.L., Deputy Keeper of the Records. 1862-1871.
27. ROYAL AND OTHER HISTORICAL LETTERS ILLUSTRATIVE OF THE REIGN OF HENRY III. Vol. I. 1216-1235. Vol. II. 1236-1272. *Selected and edited by* the Rev. W. W. SHIRLEY, D.D., Regius Professor of Ecclesiastical History, and Canon of Christ Church, Oxford. 1862-1866.

28. CHRONICA MONASTERII S. ALBANI:—

1. THOMÆ WALSINGHAM HISTORIA ANGLICANA. Vol. I., 1272-1381; Vol. II., 1381-1422.
2. WILLELMI RISHANGER CHRONICA ET ANNALES, 1259-1307.
3. JOHANNIS DE TROKELOWE ET HENRICI DE BLANEFORDE CHRONICA ET ANNALES 1259-1296; 1307-1324; 1392-1406.
4. GESTA ABBATUM MONASTERII S. ALBANI, A THOMA WALSINGHAM, REGNANTE RICARDO SECUNDO, EJUSDEM ECCLESIE PRÆCENTORE, COMPILATA. Vol. I., 793-1290; Vol. II., 1290-1349; Vol. III., 1349-1411.
5. JOHANNIS AMUNDESHAM, MONACHI MONASTERII S. ALBANI, UT VIDETUR, ANNALES; Vols. I. and II.
6. REGISTRA QUORUNDAM ABBATUM MONASTERII S. ALBANI, QUI SÆCULO XVMO FLORUERE. Vol. I., REGISTRUM ABBATÆ JOHANNIS WHETHAMSTEDE, ABBATIS MONASTERII SANCTI ALBANI, ITERUM SUSCEPTÆ; ROBERTO BLAKENEY, CAPELLANO, QUONDAM ADSCRIPTUM: Vol. II., REGISTRA JOHANNIS WHETHAMSTEDE, WILLELMI ALBON, ET WILLELMI WALINGFORDE, ABBATUM MONASTERII SANCTI ALBANI, CUM APPENDICE CONTINENTE QUASDAM EPISTOLAS A JOHANNE WHETHAMSTEDE CONSCRIPTAS.
7. YPODIGMA NEUSTRIÆ A THOMA WALSINGHAM, QUONDAM MONACHO MONASTERII S. ALBANI, CONSCRIPTUM.

*Edited by HENRY THOMAS RILEY, M.A., Barrister-at-Law.
1863-1876.*

In the first two volumes is a History of England, from the death of Henry III. to the death of Henry V., by Thomas Walsingham. Precentor of St. Albans.

In the 3rd volume is a Chronicle of English History, attributed to William Rishanger, who lived in the reign of Edward I.; an account of transactions attending the award of the kingdom of Scotland to John Balliol, 1291-1292, also attributed to William Rishanger, but on no sufficient ground: a short Chronicle of English History, 1292 to 1300, by an unknown hand: a short Chronicle, William Rishanger Gesta Edwardi Primi, Regis Anglie, probably by the same hand: and fragments of three Chronicles of English History, 1285 to 1307.

In the 4th volume is a Chronicle of English History, 1259 to 1296: Annals of Edward II., 1307 to 1323, by John de Trokelowe, a monk of St. Albans, and a continuation of Trokelowe's Annals, 1323, 1324, by Henry de Blaneforde: a full Chronicle of English History, 1392 to 1406, and an account of the benefactors of St. Albans, written in the early part of the 15th century.

The 5th, 6th, and 7th volumes contain a history of the Abbots of St. Albans, 793 to 1411, mainly compiled by Thomas Walsingham, with a Continuation.

The 8th and 9th volumes, in continuation of the Annals, contain a Chronicle probably of John Amundesham, a monk of St. Albans.

The 10th and 11th volumes relate especially to the acts and proceedings of Abbots Wethamstede, Albon, and Wallingford.

The 12th volume contains a compendious History of England to the reign of Henry V. and of Normandy in early times, also by Thomas Walsingham, and dedicated to Henry V.

29. CHRONICON ABBATÆ EVESHAMENSIS, AUCTORIBUS DOMINICO PRIORE EVESHAMIÆ ET THOMA DE MARLEBERGE ABBATE, A FUNDATIONE AD ANNUM 1213, UNA CUM CONTINUATIONE AD ANNUM 1418. *Edited by the Rev. W. D. MACRAY, Bodleian Library, Oxford. 1863.*

The Chronicle of Evesham illustrates the history of that important monastery from 690 to 1418. Its chief feature is an autobiography, which makes us acquainted with the inner daily life of a great abbey. Interspersed are many notices of general, personal, and local history.

30. RICARDI DE CIRENCESTRIA SPECULUM HISTORIALE DE GESTIS REGUM ANGLIÆ. Vol. I., 447-871. Vol. II., 872-1066. *Edited by JOHN E. B. MAYOR, M.A., Fellow of St. John's College, Cambridge. 1863-1869.*

Richard of Cirencester's history is in four books, and gives many charters in favour of Westminster Abbey, and a very full account of the lives and miracles of the saints, especially of Edward the Confessor, whose reign occupies the fourth book. A treatise on the Coronation, by William of Sudbury, a monk of Westminstr, fills book ii. c. 3.

31. YEAR BOOKS OF THE REIGNS OF EDWARD THE FIRST AND EDWARD THE THIRD. Years 20-21, 21-22, 30-31, 32-33, and 33-35 Edw. I.; and 11-12 Edw. III. *Edited and translated by ALFRED JOHN HORWOOD, Barrister-at-Law. Years 12-13, 13-14, 14-15, 15, 16, 17, 17-18, 18-19, 19, and 20, Edward III. Edited and translated by LUKE OWEN PIKE, M.A., Barrister-at-Law. 1863-1906.*

32. **NARRATIVES OF THE EXPULSION OF THE ENGLISH FROM NORMANDY, 1449-1450.**—Robertus Blondelli de Reductione Normanniae : Le Recouvrement de Normandie, par Berry, Hérault du Roy : Conférences between the Ambassadors of France and England. *Edited by the Rev. JOSEPH STEVENSON, M.A.* 1863.
33. **HISTORIA ET CARTULARIUM MONASTERII S. PETRI GLOUCESTRIÆ** Vols. I.-III. *Edited by W. H. HAET, F.S.A., Membre Correspondant de la Société des Antiquaires de Normandie.* 1863-1867.
34. **ALEXANDRI NECKAM DE NATURIS RERUM LIBRI DUO;** with NECKAM's POEM, DE LAUDIBUS DIVINÆ SAPIENTIÆ. *Edited by THOMAS WRIGHT, M.A.* 1863.
35. **LEECHDOMS, WORTCUNNING, AND STARCRAFT OF EARLY ENGLAND;** being a Collection of Documents illustrating the History of Science in this Country before the Norman Conquest. Vols. I.-III. *Collected and edited by the Rev. T. OSWALD COCKAYNE, M.A.* 1864-1866.
36. **ANNALES MONASTICI.**
 Vol. I. :—Annales de Margan, 1066-1232 ; Annales de Theokesberia, 1066-1263 ; Annales de Burton, 1004-1263.
 Vol. II. :—Annales Monasterii de Wintonia, 519-1277 ; Annales Monasterii de Waverleia, 1-1291.
 Vol. III. :—Annales Prioratus de Dunstaplia, 1-1297. Annales Monasterii de Bermundescea, 1042-1432.
 Vol. IV. :—Annales Monasterii de Oseneia, 1016-1347 ; Chronicon vulgo dictum Chronicum Thomæ Wykes, 1066-1289 ; Annales Prioratus de Wigornia, 1-1377.
 Vol. V. :—Index and Glossary.
Edited by HENRY RICHARDS LUARDS, M.A., Fellow and Assistant Tutor of Trinity College, and Registry of the University, Cambridge. 1864-1869.
37. **MAGNA VITA S. HUGONIS EPISCOPI LINCOLNIENSIS.** *Edited by the Rev. JAMES F. DIMOCK, M.A., Rector of Barnburgh, Yorkshire* 1864.
38. **CHRONICLES AND MEMORIALS OF THE REIGN OF RICHARD THE FIRST.**
 Vol. I. :—ITINERARIUM PEREGRINORUM ET GESTA REGIS RICARDI.
 Vol. II. :—EPISTOLÆ CANTUARIENSES ; the Letters of the Prior and Convent of Christ Church, Canterbury ; 1187 to 1199.
Edited by the Rev. WILLIAM STUBBS, M.A., Vicar of Navestock, Essex, and Lambeth Librarian. 1864-1865.
The authorship of the Chronicle in Vol. I., hitherto ascribed to Geoffrey Vinesauf, is now more correctly ascribed to Richard, Canon of the Holy Trinity of London. The letters in Vol. II., written between 1187 and 1199, had their origin in a dispute which arose from the attempts of Baldwin and Hubert, archbishops of Canterbury, to found a college of secular canons, a project which gave great umbrage to the monks of Canterbury.
39. **RECUEIL DES CRONIQUES ET ANCHIENNES ISTORIES DE LA GRANT BRETAIGNE A PRESENT NOMME ENGLETERRE,** par JEHAN DE WAURIN. Vol. I., Albina to 688. Vol. II., 1399-1422. Vol. III., 1422-1431. *Edited by WILLIAM HARDY, F.S.A.* 1864-1879. Vol. IV., 1431-1447. Vol. V., 1447-1471. *Edited by Sir WILLIAM HARDY, F.S.A., and EDWARD L. C. P. HARDY, F.S.A.* 1884-1891.
40. **A COLLECTION OF THE CHRONICLES AND ANCIENT HISTORIES OF GREAT BRITAIN, NOW CALLED ENGLAND,** by JOHN DE WAURIN. Vol. I., Albina to 688. Vol. II., 1399-1422. Vol. III., 1422-1431. (Translations of the preceding Vols. I., II., and III.) *Edited and translated by Sir WILLIAM HARDY, F.S.A., and EDWARD L. C. P. HARDY, F.S.A.* 1864-1891.

- 41. POLYCHRONICON RANULPHI HIGDEN**, with Trevisa's Translation. Vols. I. and II. *Edited by* CHURCHILL BABINGTON, B.D., Senior Fellow of St. John's College, Cambridge. Vols. III.-IX. *Edited by* the Rev. JOSEPH RAWSON LUMBY, D.D., Norrisian Professor of Divinity, Vicar of St. Edward's, Fellow of St. Catharine's College, and late Fellow of Magdalene College, Cambridge. 1865-1886.

This chronicle begins with the Creation, and is brought down to the reign of Edward III. The two English translations, which are printed with the original Latin, afford interesting illustrations of the gradual change of our language, for one was made in the fourteenth century, the other in the fifteenth.

- 42. LE LIVERE DE REIS DE BRITTANIE E LE LIVERE DE REIS DE ENGLETERE.** *Edited by* the Rev. JOHN GLOVER, M.A., Vicar of Brading, Isle of Wight, formerly Librarian of Trinity College, Cambridge. 1865.

These two treatises are valuable as careful abstracts of previous histories.

- 43. CHRONICA MONASTERII DE MELSA AB ANNO 1150 USQUE AD ANNUM 1406**, Vols. I.-III. *Edited by* EDWARD AUGUSTUS BOND, Assistant Keeper of Manuscripts, and Egerton Librarian, British Museum. 1866-1868.

- 44. MATTHÆI PARISIENSIS HISTORIA ANGLORUM, SIVE UT VULGO DICITUR HISTORIA MINOR.** Vols. I.-III. 1067-1253. *Edited by* Sir FREDERICK MADDEN, K.H., Keeper of the Manuscript Department of the British Museum. 1866-1869.

- 45. LIBER MONASTERII DE HYDA : A CHRONICLE AND CHARTULARY OF HYDE ABBEY, WINCHESTER, 455-1023.** *Edited by* EDWARD EDWARDS. 1866.

The "Book of Hyde" is a compilation from much earlier sources, which are usually indicated with considerable care and precision. In many cases, however, the Hyde Chronicler appears to correct, to qualify, or to amplify the statements which, in substance, he adopts.

There is to be found, in the "Book of Hyde," much information relating to the reign of King Alfred which is not known to exist elsewhere. The volume contains some curious specimens of Anglo-Saxon and mediæval English.

- 46. CHRONICON SCOTORUM. A CHRONICLE OF IRISH AFFAIRS**, from the earliest times to 1135; and SUPPLEMENT, containing the events from 1141 to 1150. *Edited, with Translation, by* WILLIAM MAUNSELL HENNESSY, M.R.I.A. 1866.

- 47. THE CHRONICLE OF PIERRE DE LANGTOFT IN FRENCH VERSE, FROM THE EARLIEST PERIOD TO THE DEATH OF EDWARD I.** Vols. I. and II. *Edited by* THOMAS WRIGHT, M.A. 1866-1868.

It is probable that Pierre de Langtoft was a canon of Bridlington, in Yorkshire and lived in the reign of Edward I., and during a portion of the reign of Edward II. This chronicle is divided into three parts; in the first, is an abridgement of Geoffrey of Monmouth's "Historia Britonum"; in the second, a history of the Anglo-Saxon and Norman kings, to the death of Henry III.; in the third, a history of the reign of Edward I. The language is a specimen of the French of Yorkshire.

- 48. THE WAR OF THE GAEDHL WITH THE GAILL, OR THE INVASIONS OF IRELAND BY THE DANES AND OTHER NORSEMEN.** *Edited, with a Translation, by* the Rev. JAMES HENTHORN TODD, D.D., Senior Fellow of Trinity College, and Regius Professor of Hebrew in the University of Dublin. 1867.

- 49. GESTA REGIS HENRICI SECUNDI BENEDICTI ABBATIS. CHRONICLE OF THE REIGNS OF HENRY II. AND RICHARD I.** 1169-1192, known under the name of BENEDICT OF PETERBOROUGH. Vols. I. and II. *Edited by* the Rev. WILLIAM STUBBS, M.A., Regius Professor of Modern History, Oxford, and Lambeth Librarian. 1867.

- 50. MUNIMENTA ACADEMICA, OR DOCUMENTS ILLUSTRATIVE OF ACADEMICAL LIFE AND STUDIES AT OXFORD (in Two Parts).** *Edited by* the Rev. HENRY ANSTEVY, M.A., Vicar of St. Wendron, Cornwall, and late Vice-Principal of St. Mary Hall, Oxford. 1868.

51. **CHRONICA MAGISTRI ROGERI DE HOUEDENE.** Vols. I.-IV. *Edited by the Rev. WILLIAM STUBBS, M.A., Regius Professor of Modern History and Fellow of Oriel College, Oxford.* 1868-1871.
 The earlier portion, extending from 732 to 1148, appears to be a copy of a compilation made in Northumbria about 1161, to which Hoveden added little. From 1148 to 1169—a very valuable portion of this work—the matter is derived from another source, to which Hoveden appears to have supplied little. From 1170 to 1192 is the portion which corresponds to some extent with the Chronicle known under the name of Benedict of Peterborough (see No. 49). From 1192 to 1201 may be said to be wholly Hoveden's work.
52. **WILLELMI MALMESBIRIENSIS MONACHI DE GESTIS PONTIFICUM ANGLORUM LIBRI QUINQUE.** *Edited by N. E. S. A. HAMILTON, of the Department of Manuscripts, British Museum.* 1870.
53. **HISTORIC AND MUNICIPAL DOCUMENTS OF IRELAND, FROM THE ARCHIVES OF THE CITY OF DUBLIN, &c.** 1172-1320. *Edited by JOHN T. GILBERT, F.S.A., Secretary of the Public Record Office of Ireland.* 1870.
54. **THE ANNALS OF LOCH CÉ.** A CHRONICLE OF IRISH AFFAIRS, FROM 1041 to 1590. Vols. I. and II. *Edited, with a Translation, by WILLIAM MAUNSELL HENNESSY, M.R.I.A.* 1871. (Out of print.)
55. **MONUMENTA JURIDICA.** THE BLACK BOOK OF THE ADMIRALTY, WITH APPENDICES, Vols. I.-IV. *Edited by Sir TRAVERS TWISS, Q.C., D.C.L.* 1871-1876.
 This book contains the ancient ordinances and laws relating to the navy.
56. **MEMORIALS OF THE REIGN OF HENRY VI. :—OFFICIAL CORRESPONDENCE OF THOMAS BEKYNTON, SECRETARY TO HENRY VI., AND BISHOP OF BATH AND WELLS.** *Edited by the Rev. GEORGE WILLIAMS, B.D., Vicar of Ringwood, late Fellow of King's College, Cambridge.* Vols. I. and II. 1872.
57. **MATTHÆI PARISIENSIS, MONACHI SANCTI ALBANI, CHRONICA MAJORA**
 Vol. I. The Creation to A.D. 1066. Vol. II. 1067 to 1216. Vol. III. 1216 to 1239. Vol. IV. 1240 to 1247. Vol. V. 1248 to 1259. Vol. VI. Additamenta. Vol. VII. Index. *Edited by the Rev. HENRY RICHARDS LUARD, D.D., Fellow of Trinity College, Registrar of the University, and Vicar of Great St. Mary's, Cambridge.* 1872-1884.
58. **MEMORIALE FRATRIS WALTERI DE COVENTRIA.—THE HISTORICAL COLLECTIONS OF WALTER OF COVENTRY.** Vols. I. and II. *Edited by the Rev. WILLIAM STUBBS, M.A., Regius Professor of Modern History, and Fellow of Oriel College, Oxford.* 1872-1873.
59. **THE ANGLO-LATIN SATIRICAL POETS AND EPIGRAMMATISTS OF THE TWELFTH CENTURY.** Vols. I. and II. *Collected and edited by THOMAS WRIGHT, M.A., Corresponding Member of the National Institute of France (Académie des Inscriptions et Belles-Lettres).* 1872.
60. **MATERIALS FOR A HISTORY OF THE REIGN OF HENRY VII., FROM ORIGINAL DOCUMENTS PRESERVED IN THE PUBLIC RECORD OFFICE.** Vols. I. and II. *Edited by the Rev. WILLIAM CAMPBELL, M.A., one of Her Majesty's Inspectors of Schools.* 1873-1877.
61. **HISTORICAL PAPERS AND LETTERS FROM THE NORTHERN REGISTERS.** *Edited by the Rev. JAMES RAINES, M.A., Canon of York, and Secretary of the Surtees Society.* 1873.
62. **REGISTRUM PALATINUM DUNELMENSE.** THE REGISTER OF RICHARD DE KELLAWE, LORD PALATINE AND BISHOP OF DURHAM; 1311-1316. Vols. I.-IV. *Edited by Sir THOMAS DUFFUS HARDY, D.C.L., Deputy Keeper of the Records.* 1873-1878.
63. **MEMORIALS OF ST. DUNSTAN, ARCHBISHOP OF CANTERBURY.** *Edited by the Rev. WILLIAM STUBBS, M.A., Regius Professor of Modern History and Fellow of Oriel College, Oxford.* 1874.

64. CHRONICON ANGLIÆ, AB ANNO DOMINI 1328 USQUE AD ANNUM 1388,
AUCTORE MONACHO QUODAM SANCTI ALBANI. *Edited by EDWARD
MAUNDE THOMPSON, Barrister-at-Law, Assistant Keeper of the
Manuscripts in the British Museum.* 1874.

65. THOMAS SAGA ERIKIBYSKUPS. A LIFE OF ARCHBISHOP THOMAS
BECKET, IN ICELANDIC. Vols. I. and II. *Edited, with English
Translation, Notes, and Glossary, by M. EIRIKR MAGNUSSON, M.A.,
Sub-Librarian of the University Library, Cambridge.* 1875–
1884.

66. RADULPHI DE COGGESEHALI CHRONICON ANGLICANUM. *Edited by
the Rev. JOSEPH STEVENSON, M.A.* 1875.

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